

**DIVISION 2. ADMINISTRATION****CHAPTER 1. THE DEPARTMENT OF MOTOR VEHICLES****Article 1. Organization of Department*****Department of Motor Vehicles***

1500. There is in the Business, Transportation and Housing Agency the Department of Motor Vehicles.

Amended Ch. 144, Stats. 1984. Effective January 1, 1985.

***Successor to State Agencies***

1501. The department is the successor to and is hereby vested with all of the powers, duties, purposes, responsibilities, and jurisdiction now or hereafter vested by law in the Department of Motor Vehicles, the Motor Vehicle Department, the Motor Vehicle Department of California, the Division of Motor Vehicles of the Department of Finance, the Division of Motor Vehicles of the Department of Public Works, and all other state agencies of similar designation, or in the several heads, members, officers, and employees of each thereof.

***Possession of Records and Property***

1502. The department has possession and control of all records, books, papers, offices, equipment, moneys, funds, appropriations, and all other property, real or personal, now or hereafter held for the benefit or use of any state agency mentioned in Section 1501.

***State Department Provisions***

1503. Except as in this division otherwise provided, the provisions of Chapter 2 (commencing at Section 11150) of Part 1 of Division 3 of Title 2 of the Government Code shall govern and apply to the conduct of the department in every respect the same as if the provisions were set forth in this code, and wherever in that chapter the term "head of the department" or similar designation occurs, for the purposes of this division, it shall mean the director.

Amended Ch. 1996, Stats. 1959. Effective September 18, 1959.

***Director of Motor Vehicles***

1504. The department is under the control of a civil executive officer known as the Director of Motor Vehicles. The director shall be appointed by, and hold office at the pleasure of, the Governor.

Amended Ch. 268, Stats. 1984. Effective June 30, 1984.

***Organization of Department***

1505. The director, with the approval of the Governor and the Secretary of the Business, Transportation and Housing Agency, shall organize the department in such manner as he or she may deem necessary to conduct the work of the department.

Amended Ch. 454, Stats. 1982. Effective January 1, 1983.

***Appointment of Subordinates***

1507. The director may appoint and, in accordance with law fix the salaries of:

(a) A deputy director.

(b) Such other officers, deputies, technical experts, and employees as may be necessary for the proper discharge of the duties of the department.

## Article 2. Powers and Duties

**Administration and Enforcement**

1650. The director shall administer and enforce the provisions of this code relating to the department.

**Rules and Regulations**

1651. The director may adopt and enforce rules and regulations as may be necessary to carry out the provisions of this code relating to the department.

Rules and regulations shall be adopted, amended, or repealed in accordance with the Administrative Procedure Act, commencing with Section 11370 of the Government Code.

Amended Ch. 1500, Stats. 1965. Effective September 17, 1965.

**Occupational Licensing: Court Orders**

1651.2. Whenever in the judgment of the department, any person has engaged, or is about to engage, in any acts or practices that constitute, or will constitute, an offense against Division 5 (commencing with Section 11100) by engaging in any act subject to license requirements without having obtained a license, the department may apply to the appropriate court for an order enjoining the acts or practices, and, upon showing by the department that the person has engaged, or is about to engage, in any of those acts or practices, an injunction, restraining order, or other order that may be appropriate shall be granted by the court, including the costs incurred by the department in obtaining the order.

Added Ch. 584, Stats. 1994. Effective January 1, 1995.

**Commercial Driver's Licenses: Military Veterans**

1651.3. It is the policy of this state to recognize the training and experience that individuals gain while serving in the armed forces of the United States. In furtherance of this policy, the department, in conjunction with the military services of the United States, shall develop policies to assist persons who are leaving active duty to obtain commercial drivers licenses. These policies shall not waive any requisites, fees, or examinations required by law for a commercial drivers license. These policies shall specify how this training and experience may be used to obtain these licenses. The department shall consult with the Department of Veterans Affairs before adopting these policies. The department shall perform the duties required by this section within existing budgetary resources of the agency within which the department operates.

Added Ch. 987, Stats. 1994. Effective September 29, 1994.

**Conversion to Year-Round Registration**

1651.5. The director may assign or reassign dates for the expiration of registration for any vehicles registered pursuant to this code. The director may establish a registration year for any vehicle consisting of any period from seven months to 18 months, inclusive, with subsequent renewals being required at yearly intervals thereafter. The director shall assign an expiration date of the last day of the calendar month to all trailers and to all motor vehicles subject to additional fees under the provisions of Section 9400. Any vehicle being registered on a quarterly basis shall be assigned or reassigned an expiration date of December 31 for the registration year. The director shall have the authority to exclude from year-round registration any type of vehicles that he may deem appropriate for exclusion.

Amended Ch. 1330, Stats. 1974. Effective September 26, 1974.

**Forms**

1652. (a) The department shall prescribe and provide suitable forms of applications, certificates of ownership, registration cards, drivers' licenses, and all other forms requisite or deemed necessary for the purposes of this code and shall prepay all transportation charges thereon.

(b) The department may require that any application or document filed with the department be signed and submitted under penalty of perjury.

Amended Ch. 830, Stats. 1982. Effective January 1, 1983.

**Grant or Refusal of Applications**

1653. The department shall examine and determine the genuineness and regularity of every application or document filed with it under this code and may require additional information or reject any such application or document if not satisfied of the genuineness and regularity thereof or the truth of any statement contained therein.

Amended Ch. 58, Stats. 1961. Effective September 15, 1961.

**Department Forms: Required Information**

1653.5. (a) Every form prescribed by the department for use by an applicant for the issuance or renewal by the department of a driver's license or identification card pursuant to Division 6 (commencing with Section 12500) shall contain a section for the applicant's social security account number.

(b) Every form prescribed by the department for use by an applicant for the issuance, renewal, or transfer of the registration or certificate of title to a vehicle shall contain a section for the applicant's driver's license or identification card number.

(c) Any person who submits to the department a form that, pursuant to subdivision (a), contains a section for the applicant's social security account number, or pursuant to subdivision (b), the applicant's driver's license or identification card number, if any, shall furnish the appropriate number in the space provided.

(d) The department shall not complete any application that does not include the applicant's social security account number or driver's license or identification card number as required by subdivision (c).

(e) An applicant's social security account number shall not be included by the department on any driver's license, identification card, registration, certificate of title, or any other document issued by the department.

(f) Notwithstanding any other provision of law, information regarding an applicant's social security account number, obtained by the department pursuant to this section, is not a public record and shall not be disclosed by the department except for any of the following purposes:

(1) Responding to a request for information from an agency operating pursuant to, and carrying out the provisions of, Part A (Aid to Families with Dependent Children), or Part D (Child Support and Establishment of Paternity), of Subchapter IV of Chapter 7 of Title 42 of the United States Code.

(2) Implementation of Section 12419.10 of the Government Code.

(3) Responding to information requests from the Franchise Tax Board for the purpose of tax administration.

Amended Ch. 1221, Stats. 1994. Effective January 1, 1995.

Amended Sec. 6, Ch. 619, Stats. 1997. Effective January 1, 1998.

**Real Property**

1654. The director may purchase or lease such real estate and erect such buildings as the department or any of its divisions require, subject to the

approval of the Department of General Services.

Amended Ch. 371, Stats. 1965. Effective September 17, 1965.

### **Peace Officer Powers**

1655. (a) The director and deputy director of the department, the Deputy Director, Investigations and Audits Division, the Chief, Field Investigations Branch, and the investigators of the department, including rank-and-file, supervisory, and management personnel, shall have the powers of peace officers for the purpose of enforcing those provisions of law committed to the administration of the department or enforcing the law on premises occupied by the department.

(b) Any person designated in subdivision (a) may inspect any vehicle of a type required to be registered under this code, or any component part thereof, in any garage, repair shop, parking lot, used car lot, automobile dismantler's lot, steel mill, scrap metal processing facility, or other establishment engaged in the business of selling, repairing, or dismantling vehicles, or reducing vehicles or the integral parts thereof to their component materials for the purpose of investigating the title and registration of the vehicle, inspecting wrecked or dismantled vehicles, or locating stolen vehicles.

Amended Sec. 4, Ch. 1035, Stats. 2000. Effective January 1, 2001.

### **Vehicle Code and Synopsis**

1656. (a) The department shall publish the complete text of the California Vehicle Code together with other laws relating to the use of highways or the operation of motor vehicles ( ) ***once every two years. The department, upon written request of any state or local governmental officer or agency, any federal agency, any public secondary school in this state, or any other person, shall distribute the California Vehicle Code at a charge sufficient to pay the entire cost of publishing and distributing the code. With regard to public secondary schools, the quantities shall be sufficient to provide one copy for each driver training and education instructor and one copy for each public secondary school library.*** In determining the amount of the charge, a fraction of a dollar shall be disregarded, unless it exceeds fifty cents (\$0.50), in which case it shall be treated as one full dollar (\$1). The receipts from the sale of such publications shall be deposited in the Motor Vehicle Account, ***with the intent to reimburse the department for the entire cost to print and distribute the Vehicle Code.***

(b) The department shall publish a synopsis or summary of the laws regulating the operation of vehicles and the use of the highways and may deliver a copy thereof without charge with each original vehicle registration and with each original driver's license. The department shall publish such number of copies of the synopsis or summary in the Spanish language as the director determines are needed to meet the demand for such copies. The department shall furnish both English and Spanish copies to its field offices and to law enforcement agencies for general distribution and, when it does so, shall furnish the copies without charge.

Amended Ch. 818, Stats. 1978. Effective January 1, 1979. Supersedes Ch. 380.

Amended Sec. 8, Ch. 805, Stats. 2002. Effective September 22, 2002.

The 2002 amendment added the italicized material, and at the point(s) indicated, deleted the following: "at least once every two years and may republish the code and laws and distribute the same as may be deemed advisable without charge upon written request of any state or local governmental officer or agency, or of any federal agency. Paperback copies of the Vehicle Code may be distributed without charge to any public secondary school in this state in quantities not to exceed one for each driver training and education instructor and one for each public secondary school library. The department shall sell and distribute the California Vehicle Code to all other persons at a charge sufficient to pay the entire actual cost of publishing and distributing the code, except the charge shall not exceed three dollars (\$3)"

**Summary of Financial Responsibility Laws**

1656.2. The department shall prepare and publish a printed summary describing the penalties for noncompliance with Sections 16000 and 16028, which shall be included with each motor vehicle registration, registration renewal, and transfer of registration and with each driver's license and license renewal. The printed summary may contain, but is not limited to, the following wording:

**"IMPORTANT FACTS ABOUT ENFORCEMENT OF CALIFORNIA'S  
COMPULSORY FINANCIAL RESPONSIBILITY LAW**

California law requires every driver to carry written evidence of valid automobile liability insurance, a thirty-five thousand dollar (\$35,000) bond, a thirty-five thousand dollar (\$35,000) cash deposit, or a certificate of self-insurance that has been issued by the Department of Motor Vehicles.

You must provide evidence of financial responsibility when you renew the registration of a motor vehicle, and after you are cited by a peace officer for a traffic violation or are involved in any traffic accident. The law requires that you provide the officer with the name and address of your insurer and the policy identification number. Your insurer will provide written evidence of this number. Failure to provide evidence of your financial responsibility can result in fines of up to five hundred dollars (\$500) and loss of your driver's license. Falsification of evidence can result in fines of up to seven hundred fifty dollars (\$750) or 30 days in jail, or both., in addition to a one-year suspension of driving privileges.

Under existing California law, if you are involved in an accident that results in damages of over ( ) ***seven hundred fifty dollars (\$750)*** to the property of any person or in any injury or fatality, you must file a report of the accident with the Department of Motor Vehicles within 10 days of the accident. If you fail to file a report or fail to provide evidence of financial responsibility on the report, your driving privilege will be suspended for up to four years. Your suspension notice will notify you of the department's action and of your right to a hearing. Your suspension notice will also inform you that if you request a hearing, it must be conducted within 30 days of your written request, and that a decision is to be rendered within 15 days of the conclusion of the hearing."

Amended Sec. 114, Ch. 124, Stats. 1996. Effective January 1, 1997.

Amended Sec. 16, Ch. 787, Stats. 2000. Effective January 1, 2001.

Amended Sec. 1, Ch. 766, Stats. 2002. Effective January 1, 2003.

The 2002 amendment added the italicized material, and at the point(s) indicated, deleted the following "five hundred dollars (\$500)"

**Driver's Handbook: Required Subjects**

1656.3. (a) The department shall include within the California Driver's Handbook, as specified in subdivision (b) of Section 1656, language regarding each of the following:

(1) Rail transit safety.

(2) Abandonment or dumping of any animal on a highway.

(b) In order to minimize costs, the language referred to in paragraph (2) of subdivision (a) shall be initially included at the earliest opportunity when the handbook is otherwise revised or reprinted.

Added Ch. 722, Stats. 1993. Effective January 1, 1994.

Amended Sec. 1, Ch. 300, Stats. 2001. Effective January 1, 2002.

**Motor Vehicles: Consumer Affairs:  
Information to Assist Consumers**

1656.4. (a) The department, in consultation with the Department of Consumer Affairs, shall make available on its Internet web site, on or before July 1, 1997, information to assist consumers who plan to purchase a vehicle

or who have purchased a vehicle. The information shall, at a minimum, contain the names, addresses, electronic addresses, and telephone numbers of all of the following:

(1) State and federal government agencies that deal with consumer affairs and vehicles.

(2) Vehicle arbitration services.

(3) Consumer organizations that provide information and direct assistance to consumers with vehicle concerns.

(b) Money deposited in the Consumer Fraud Protection Program Fund shall be available, upon appropriation by the Legislature, for the consumer protection activities of the department, including, but not limited to, expenditures by the department to comply with the requirements specified in subdivision (a).

Added Sec. 1, Ch. 722, Stats. 1996. Effective January 1, 1997.

### ***Driver Education***

1657. The director may assign qualified employees of the department to advise with the State Board of Education and with the governing boards of districts maintaining secondary schools in the preparation, establishment, and conduct of courses in automobile driver education and automobile driver training in secondary schools under the provisions of the Education Code.

Amended Ch. 438, Stats. 1971. Operative May 3, 1972.

### ***Memberships in Associations Dealing with Related Subjects***

1658. The department may pay membership fees, join, and participate in affairs of associations having for their purpose the interchange of information relating to the registration of vehicles and the issuance of operators' licenses, financial responsibility, and subjects relating to highway safety and to the powers and duties of the department.

### ***Driver Education, Training Program for Negligent Drivers***

1659. The department may develop criteria, establish standards for, and coordinate a program of motor vehicle driver education and motor vehicle driver training for drivers whose licenses have been suspended or revoked.

The purpose of the program shall be to promote safe driving. To carry out this purpose the department may seek the advice or cooperation of the schools, courts, and other interested persons.

Added Ch. 447, Stats. 1965. Effective September 17, 1965.

### ***Nonprofit Organizations: Records of Vehicle Donations and Sales***

1660. (a) Any institution or organization described in subdivision (o) of Section 286 shall keep the following records for not less than three years:

(1) The name and address of each vehicle donor and the year, make, vehicle identification number, and, if available, the license plate number of the donated vehicle.

(2) An itemized listing by vehicle identification number of the date each vehicle was donated, the date sold, and the amount for which it was sold.

(3) If the donated vehicle is being sold by an institution or organization on behalf of another institution or organization pursuant to paragraph (2) of subdivision (o) of Section 286, the following documentation shall be retained in the following manner:

(A) A signed, written agreement shall remain on the premises that identifies the percentage of the proceeds that may be retained by the selling institution or organization, a statement that each vehicle meets, or, unless sold at wholesale, by the time of sale will meet, the equipment requirements of Division 12 (commencing with Section 24000), and a statement that each vehicle is in compliance, or, unless sold at wholesale, at the time of sale will

be in compliance, with emission control certification requirements pursuant to subdivision (b) of Section 44015 of the Health and Safety Code.

(B) A separate listing that identifies each vehicle by year, make, and vehicle identification number.

(C) All itemized listings pursuant to subparagraph (D) of paragraph (2) of subdivision (o) of Section 286.

(D) The selling institution or organization shall retain all documentation pertaining to the sale of vehicles on behalf of another institution or organization in the same manner as is required for the sale of vehicles donated to the selling institution or organization.

(b) The department may inspect the records of any nonprofit institution or organization that obtains donated vehicles in order to ascertain whether it meets the conditions specified in subdivision (o) of Section 286.

Amended Sec. 2, Ch. 460, Stats. 2001. Effective January 1, 2002.

### **Notification of Registration Renewal**

1661. (a) ***Except for vehicles registered pursuant to Article 5 (commencing with Section 9700) of Chapter 6 of Division 3, the department shall notify the registered owner of each vehicle of the date that the registration renewal ( ) fees of the vehicle are due, at least 60 days prior to that due date. The fact that the required notice was mailed shall be indicated by a notation in the department's records.***

(b) The department shall include in any final notice of delinquent registration provided to the registered owner of a vehicle whose registration has not been properly renewed as required under this code, information relating to the potential removal and impoundment of that vehicle under subdivision (o) of Section 22651.

Amended Sec. 4, Ch. 22, Stats. 1999. Effective May 26, 1999.

Amended Sec. 9, Ch. 805, Stats. 2002. Effective September 22, 2002.

The 2002 amendment added the italicized material, and at the point(s) indicated, deleted the following "fee of the vehicle is due"

### **Investigation of Dismantler Violations**

1662. Notwithstanding any other provision of law, the department shall have no duty to investigate alleged violations of the provisions of Chapter 3 (commencing with Section 11500) of Division 5 by any person defined as an "automobile dismantler" by subdivision (b) of Section 220 and Section 221, unless notice of such alleged violations has been given the department by the district attorney, county counsel, city attorney, or other duly constituted law enforcement agency.

Amended Ch. 373, Stats. 1979. Effective January 1, 1980.

### **Shoulder Harnesses and Lapbelts**

1663. (a) The department shall, in the synopsis or summary of laws regulating the operation of vehicles and the use of the highways published under subdivision (b) of Section 1656, provide a warning which states that, in certain accidents, the lack of a shoulder harness may cause, or aggravate, serious and fatal injuries, especially to the head, spinal column, and abdominal organs.

(b) Nothing in this section limits or impairs the rights or remedies that are otherwise available to any person under existing law.

Amended Sec. 34, Ch. 877, Stats. 1998. Effective January 1, 1999.

### **Safe Streets Act of 1994: Publicity by Department**

1664. The department shall publicize the Safe Streets Act of 1994 when mailing vehicle registrations, driver's licenses, and driver's license suspension and revocation notices, and in other educational materials made

available by the department.

Added Ch. 1133, Stats. 1994. Effective January 1, 1995.

### ***Occupational Licenses: Time of Renewal***

1665. Notwithstanding any other provision of law, the department by rule or regulation may provide for the issuance and renewal on a two-year basis of licenses or other indicia of authority issued pursuant to this code by the department or any agency in the department.

The department may, by rule or regulation, set the fee for such two-year license, certificate of registration, or other indicia, not to exceed twice the annual fee for issuance or renewal set by statute.

This section shall not apply to any driver's license or vehicle or vessel license or certificate of registration issued pursuant to this code.

Added Ch. 57, Stats. 1975. Effective January 1, 1976.

### ***Blood Alcohol Information***

1666. The department shall do all of the following:

(a) Include at least one question in each test of an applicant's knowledge and understanding of the provisions of this code, as administered pursuant to Section 12804 or 12814, to verify that the applicant has read and understands the table of blood alcohol concentration published in the Driver's Handbook made available pursuant to subdivision (b) of Section 1656. In order to minimize costs, the question or questions shall be initially included at the earliest opportunity when the test is otherwise revised or reprinted.

(b) Include with each driver's license or certificate of renewal and each vehicle registration renewal mailed by the department, information that shows with reasonable certainty the amount of alcohol consumption necessary for a person to reach a 0.08 percent blood alcohol concentration by weight.

(c) Include at least one question in each test of an applicant's knowledge and understanding of the provisions of this code as administered pursuant to Section 12804 or 12814, to verify that the applicant has read and understands the rights of pedestrians. In order to minimize costs, the question or questions shall be initially included at the earliest opportunity when the test is otherwise revised or reprinted.

Amended Sec. 4, Ch. 833, Stats. 2000. Effective January 1, 2001.

### ***Abandonment or Dumping of Animals***

1666.5. The department shall include, on a rotating basis, at least one question in at least 20 percent of the tests of an applicant's knowledge and understanding of the provisions of this code, as administered pursuant to Section 12803 or 12814, to verify that the applicant has read and understands that the abandonment or dumping of any animal is a criminal offense that can create a severe traffic safety hazard.

Added Sec. 2, Ch. 300, Stats. 2001. Effective January 1, 2002.

### ***Smog Indexing Program: Notice Required***

1667. (a) As part of its motor vehicle registration and registration renewal process, other than upon the initial registration of a new motor vehicle, the department shall inform motor vehicle owners of the vehicle smog indexing program. That notice shall be in the form developed by the State Air Resources Board in consultation with the department pursuant to subdivision (c) of Section 44254 of the Health and Safety Code.

(b) This section shall become inoperative five years from the date determined pursuant to Section 32 of the act adding this section, and on the



January 1 following that date is repealed.

Added Ch. 1192, Stats. 1994. Effective January 1, 1995.

**NOTE: The preceding section shall remain in effect for five years from the date determined pursuant to Section 32 of Chapter 1192, Stats. of 1994, and on the following January 1 it is repealed.**

### ***Fingerprint Service***

1668. (a) The department may provide fingerprint service to the general public. When that service is provided, the department shall charge a fee of not less than five dollars (\$5) for each person fingerprinted.

(b) Whenever the department submits the fingerprints of an applicant for a license or certificate to the Department of Justice, and is required to pay a fee pursuant to subdivision (e) of Section 11105 of the Penal Code, the department, without the necessity of adopting regulations, shall charge the applicant a fee sufficient to reimburse the department for that fee.

Amended Ch. 1360, Stats. 1990. Effective January 1, 1991.

### ***Service to Public***

1669. It is the intent of the Legislature that the department implement procedures to ensure, to the fullest extent permitted by the resources made available to it, that any person who is requesting services relating to registration of vessels or vehicles, or who is applying for an original or renewal of a driver's license or identification card, will not be required under normal circumstances to wait in any one line for service longer than one-half hour during the department's published or posted hours of operation. Every office of the department shall have posted, at or near the entrance thereto, its hours of operation.

Added Ch. 786, Stats. 1983. Effective January 1, 1984.

### ***Occupational Licensee: More Than One Type of Business***

1670. A licensee issued an occupational license by the department and conducting more than one type of business from an established place of business shall provide a clear physical division between the types of business involving vehicles or their component parts. The established place of business shall be open to inspection of the premises, pertinent records, and vehicles by any peace officer during business hours.

Added Ch. 106, Stats. 1985. Effective January 1, 1986.

### ***Established Place of Business: Requirements***

1671. (a) The established place of business of a dealer, remanufacturer, remanufacturer branch, manufacturer, manufacturer branch, distributor, distributor branch, automobile driving school, or traffic violator school shall have an office and a dealer, manufacturer, or remanufacturer shall also have a display or manufacturing area situated on the same property where the business peculiar to the type of license issued by the department is or may be transacted. When a room or rooms in a hotel, roominghouse, apartment house building, or a part of any single- or multiple-unit dwelling house is used as an office or offices of an established place of business, the room or rooms shall be devoted exclusively to and occupied for the office or offices of the dealer, manufacturer, manufacturer branch, remanufacturer, remanufacturer branch, distributor, distributor branch, automobile driving school, or traffic violator school, shall be located on the ground floor, and shall be so constructed as to provide a direct entrance into the room or rooms from the exterior of the building. A dealer who does not offer new or used vehicles for sale at retail, a dealer who has been issued an autobroker's endorsement to his or her dealer's license and who does not also sell motor vehicles at retail, or a dealer who is a wholesaler involved for profit only in

the sale of vehicles between licensed dealers, shall have an office, but a display area is not required.

(b) The established place of business of an automobile dismantler shall have an office and a dismantling area located in a zone property zoned for that purpose by the city or county.

Amended Ch. 1253, Stats. 1994. Effective January 1, 1995.

Amended Sec. 2, Ch. 211, Stats. 1995. Effective January 1, 1996.

### **Anatomical Gifts**

1672. (a) The department shall make available, in the public area of each office of the department where applications for driver's licenses or identification cards are received, space for a sign or notice briefly describing the Uniform Anatomical Gift Act (Chapter 3.5 (commencing with Section 7150) of Part 1 of Division 7 of the Health and Safety Code) and information about the Organ and Tissue Donor Registry and the Organ and Tissue Donor Registry Fund.

(b) The department shall make available to the public in its offices a pamphlet or brochure providing more detailed information on the Organ and Tissue Donor Registry and the Organ and Tissue Donor Registry Fund.

(c) The signs, notices, pamphlets, and brochures specified in subdivisions (a) and (b) shall be provided without cost to the department by responsible private parties associated with the anatomical gift program.

Amended Sec. 4, Ch. 740, Stats. 2001. Effective January 1, 2002.

### **Depletion of Inventory: Date**

1672.3. (a) The director shall determine the date when the department's inventory of driver's license and identification card forms, as that inventory exists in accordance with the law in effect on December 31, 1998, has been depleted.

(b) The director shall make written notification of the date determined under subdivision (a) to the following persons:

(1) The Secretary of State.

(2) The Chair of the Senate Committee on Transportation.

(3) The Chair of the Assembly Committee on Transportation.

(c) The written notice required under subdivision (b) shall state that it is being submitted in accordance with this section.

Added Sec. 4, Ch. 887, Stats. 1998. Effective January 1, 1999.

### **Anatomical Gifts**

1672.5. For purposes of providing a means of identifying persons who have elected to make an anatomical gift under the Uniform Anatomical Gift Act (Chapter 3.5 (commencing with Section 7150) of Part 1 of Division 7 of the Health and Safety Code), the department shall design the driver's licenses and identification cards in order that a sticker may be affixed to the licenses and cards. The sticker shall indicate a person's willingness to make an anatomical gift, and shall be affixed with a substance that is resistant to any unintentional removal.

Added Sec. 5, Ch. 887, Stats. 1998. Effective January 1, 1999.

### **Refund: Smog Impact Fee: Definition**

1673. For the purposes of refunding the smog impact fee, as prescribed in Sections 1673.2 and 1673.4, "registered owner or lessee" means the person or persons to whom the registration or title was issued when the transaction that included the imposition of the smog impact fee under Chapter 3.3 (commencing with Section 6261) of Part 1 of Division 2 of the Revenue and Taxation Code was completed.

Added Sec. 3, Ch. 31, Stats. 2000. Effective June 8, 2000.

***Smog Impact Fee: Refund Requirements***

1673.2. (a) The department, in coordination with the Department of Finance, shall do all of the following:

(1) Search its records to identify the registered owner or lessee. Except as required under Section 1673.4, the department shall mail to the registered owner or lessee a refund notification form notifying the registered owner or lessee that he or she is eligible for a refund of the smog impact fee. This form shall identify the vehicle make and year, and include a refund claim that shall be signed, under penalty of perjury, and returned to the department.

(2) Shall acknowledge by mail claims for refund from registered owners or lessees received prior to the effective date of this section.

(3) Except as provided in Section 1673.4, shall verify whether the information provided in any claim is true and correct and shall refund the three hundred dollar (\$300) smog impact fee, plus the amount of any penalty collected for late payment of the smog impact fee, and any interest earned on those charges, to the person shown to be the registered owner or lessee.

(b) Notwithstanding Section 926.19 of the Government Code, interest shall be paid on all claims at a single annual rate, calculated by the Department of Finance, that averages the annualized interest rates earned by the Pooled Money Investment Account for the period beginning October 1990 and ending on the effective date of this section. Interest on each refund shall be calculated from the date the smog impact fee and vehicle registration transaction was completed to the date the refund is issued. Accrual of interest shall terminate one year after the effective date of this section.

(c) (1) Notwithstanding any other provision of law, those who paid the smog impact fee between October 15, 1990, and October 19, 1999, may file a claim for refund.

(2) Claims for refund by a registered owner or lessee shall be filed with the Department of Motor Vehicles within three years of the effective date of this section.

Added Sec. 4, Ch. 31, Stats. 2000. Effective June 8, 2000.

***Smog Impact Fee: Refund Claims***

1673.4. (a) Any claim submitted by a person other than a registered owner or lessee shall be filed within 30 days from the effective date of this section.

(b) If a claimant other than the registered owner or lessee files a claim, or has filed a claim prior to the effective date of this section, for refund in a manner and form verified by the department, the department shall mail a notification to the registered owner or lessee informing that person that he or she is eligible for a refund of the smog impact fee and that a competing claim for that fee has been filed. The registered owner or lessee shall have three years from the effective date of this section to inform the department that the registered owner or lessee opposes payment of the smog impact fee refund to the competing claimant. In that case, the refund shall be made to the registered owner or lessee and notice of that action shall be sent to the competing claimant. If the registered owner or lessee does not notify the department within the three-year period that he or she opposes the payment, the department shall pay the refund to the competing claimant.

(c) If any refund paid by the department under this section is disputed, any party that filed a claim may commence an action in small claims court. The small claims court action may not be filed if three years or more have elapsed from the date the department mailed the refund to either party.

(d) The State of California, its departments and agencies, and their officers or employees shall not be a party to a lawsuit between competing

claimants relating to smog impact fee refunds.

Added Sec. 5, Ch. 31, Stats. 2000. Effective June 8, 2000.

***Smog Impact Fee: Erroneous Refunds***

1673.5. The department shall attempt to recover any refund of the smog impact fee, or part thereof, that is erroneously made. Collection shall be initiated if the recipient fails to respond to the Department of Motor Vehicles' notice to pay the erroneous refund within 90 days in accordance with existing collection procedures utilized by the department.

Added Sec. 6, Ch. 31, Stats. 2000. Effective June 8, 2000.

***Smog Impact Fee: Unlawful Refund Claims***

1673.6. It is unlawful to use a false or fictitious name, to knowingly make any false statement, or conceal any material fact on a refund claim for the smog impact fee that is filed with the department. A violation of this provision is punishable under Section 72 of the Penal Code. Any signed claim form submitted to the department for a refund of the smog impact fee shall be signed under penalty of perjury.

Added Sec. 7, Ch. 31, Stats. 2000. Effective June 8, 2000.

***Smog Impact Fee: Refund Notice***

1673.7. (a) The department shall include the following notice with each check issued as a refund of the smog impact fee:

"The enclosed check is a refund of the \$300 Smog Impact Fee you paid to the Department of Motor Vehicles when you initially registered an out-of-state vehicle in California. In the case of *Jordan v. Department of Motor Vehicles* (1999) 75 Cal.App.4th 449, the court ruled the smog impact fee unconstitutional. The enclosed check includes an interest payment which has been calculated from the date the fee was paid to the date the refund is issued.

"If you have any questions about the enclosed refund, please contact your local office of the Department of Motor Vehicles."

(b) No notice other than the one required under subdivision (a) may be included with a smog impact fee refund check.

Added Sec. 8, Ch. 31, Stats. 2000. Effective June 8, 2000.

***Program Development: Success in Passing Tests***

1674. The department shall develop a program to foster a positive atmosphere that is conducive to encouraging drivers to succeed in passing any visual tests or written or behind-the-wheel driving tests administered by the department.

Added Sec. 3, Ch. 985, Stats. 2000. Effective January 1, 2001.

***Report on Restricted Licenses***

1674.2. (a) The department shall prepare a report listing all restricted driver's licenses issued during the 2001 calendar year. The report shall contain a category describing the condition that required issuance of the restricted license and shall be organized by that category. The report shall describe the restriction that was imposed in each case. The department shall submit the report to the Legislature on or before January 31, 2002.

(b) This section shall remain in effect only until January 1, 2003, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2003, deletes or extends that date.

Added Sec. 4, Ch. 985, Stats. 2000. Effective January 1, 2001.

***Visual, Written, or Behind-the-Wheel Driving Tests: Sensitivity Component***

1674.4. In order to address any conscious or unconscious bias against a driver by persons administering the department's visual tests or written or

behind-the-wheel driving tests, the department shall implement a component in its training and development program for test administrators that encourages sensitivity to the issues of youth and aging.

Added Sec. 5, Ch. 985, Stats. 2000. Effective January 1, 2001.

### ***Transportation Alternatives: Legislative Intent***

1674.6. (a) The Legislature finds and declares that persons should be provided with transportation alternatives when their privilege to drive is lost because of failure to pass visual tests or written or behind-the-wheel driving tests. While a partial obligation for addressing this issue rests with families, communities, social service agencies, and local governments, the Legislature recognizes an obligation to promote, facilitate, and share in the funding of alternative modes of transportation for persons who have lost their driving privilege.

(b) Accordingly, it is the intent of the Legislature, not later than January 1, 2003, to provide an affordable and equitable mode of transportation to fulfill the reasonable transportation needs of persons who have lost their driver's licenses due to a failure to pass a visual test or a written or behind-the-wheel driving test.

(c) In furtherance of the intent set forth in subdivision (b), the Business, Transportation and Housing Agency shall establish a task force to analyze potential sources of funding and modes of transportation for persons who have lost their driver's licenses due to a failure to pass a visual test or a written or behind-the-wheel driving test. The Business, Transportation and Housing Agency shall prepare and submit a report on the findings of the task force to the Legislature not later than July 1, 2001.

Added Sec. 6, Ch. 985, Stats. 2000. Effective January 1, 2001.

### ***Mature Driver Improvement Course***

1675. (a) The director shall establish standards and develop criteria for the approval of driver improvement courses specifically designed for the safe driving needs of drivers who are 55 years of age or older, which shall be known as the mature driver improvement course.

(b) The curriculum for the course provided for in subdivision (a) shall include, but is not limited to, all of the following components:

(1) How impairment of visual and audio perception affects driving performance and how to compensate for that impairment.

(2) The effects of fatigue, medications, and alcohol on driving performance, when experienced alone or in combination, and precautionary measures to prevent or offset ill effects.

(3) Updates on rules of the road and equipment, including, but not limited to, safety belts and safe and efficient driving techniques under present day road and traffic conditions.

(4) How to plan travel time and select routes for safety and efficiency.

(5) How to make crucial decisions in dangerous, hazardous, and unforeseen situations.

(c) Each mature driver improvement course shall include not less than 400 minutes of instruction, and shall not exceed 25 students per single day of instruction or 30 students per two days of instruction.

(d) Upon satisfactory completion of the mature driver improvement course, participants shall receive and retain a certificate provided by the department, awarded and distributed by the course provider, which shall be suitable evidence of satisfactory course completion, and eligibility for three years, from the date of completion, for the mature driver vehicle liability insurance premium reduction pursuant to Section 11628.3 of the Insurance Code.

(e) The certificate may be renewed every three years from the date of completion by successfully completing a subsequent mature driver improvement course.

(f) For the purposes of this section, and Sections 1676 and 1677, “course provider” means any person offering a mature driver improvement course approved by the department pursuant to subdivision (a).

Amended Sec. 115, Ch. 124, Stats. 1996. Effective January 1, 1997.

Amended Sec. 3, Ch. 739, Stats. 2001. Effective January 1, 2002.

### ***Mature Driver Improvement Course: Fees***

1676. (a) An individual enrolling in a mature driver improvement course pursuant to Section 1675, shall pay to the course provider, a fee not to exceed twenty dollars (\$20).

(b) Each course provider shall issue a receipt for any fee it collects from any individual who registers for or attends a mature driver improvement course.

(c) The department shall charge a fee not to exceed three dollars (\$3) for each completion certificate issued by a mature driver improvement course provider, pursuant to subdivision (d) of Section 1675. The amount of the fee shall be determined by the department and shall be sufficient to defray the actual costs incurred by the department for administering the mature driver improvement program, for evaluating the program, and for any other activities deemed necessary by the department to assure high quality education for participants of the program. A course provider shall not charge a fee in excess of the fee charged by the department pursuant to this subdivision for furnishing a certificate of completion or duplicate thereof. The department shall transmit all fees it receives for deposit in the Motor Vehicle Account in the State Transportation Fund pursuant to Section 42270.

Added Ch. 1325, Stats. 1986. Effective July 1, 1987.

### ***Course Providers***

1677. (a) The department may collect a fee, to be determined by the department, from each course provider who shall be responsible for the development and operation of a mature driver improvement course, for the approval of the course, but not to exceed the actual cost of approval of the course. The department shall transmit all fees it receives for deposit in the Motor Vehicle Account in the State Transportation Fund pursuant to Section 42270.

(b) Each course provider, who has received course approval from the department, is responsible for the delivery, instruction, and content of his or her mature driver improvement course.

(c) The department shall investigate claims of impropriety on the part of a course provider. The department may withdraw the approval of courses in violation of Section 1675 or 1676, as determined by the department, for just cause, including, but not limited to any of the following:

(1) Furnishing course completion certificates to course enrollees prior to, or in the absence of, completion of the curriculum specified in subdivisions (b) and (c) of Section 1675.

(2) Charging fees in excess of the amounts specified in subdivisions (a) and (c) of Section 1676.

(d) Mature driver improvement courses approved by the department shall continue to be approved until either of the following occurs:

(1) The course provider does not meet the conditions of approval.

(2) The department finds just cause to terminate the approval pursuant

to subdivision (c).

Amended Sec. 4, Ch. 739, Stats. 2001. Effective January 1, 2002.

**DMV: Private Industry Partners**

1685. (a) In order to continue improving the quality of products and services it provides to its customers, the department, in conformance with Article 4 (commencing with Section 19130) of Chapter 5 of Part 2 of Division 5 of Title 2 of the Government Code, may establish contracts for electronic programs to join the department with qualified private industry partners to provide services that include processing and payment programs for vehicle registration and titling transactions.

(b) (1) The department may enter into contractual agreements with qualified private industry partners. There are the following three types of private industry partnerships authorized under this section:

(A) First-line business partner is an industry partner that receives data directly from the department and uses it to complete registration and titling activities for that partner's own business purposes.

(B) First-line service provider is an industry partner that receives information from the department and then transmits it to another authorized industry partner.

(C) Second-line business partner is a partner that receives information from a first-line service provider.

(2) The private industry partner contractual agreements shall include the following minimum requirements:

(A) Filing of an application and payment of an application fee, as established by the department.

(B) Submission of information, including, but not limited to, fingerprints and personal history statements, focusing on and concerning the applicant's character, honesty, integrity, and reputation as the department may consider necessary.

(C) Posting a bond in an amount consistent with the Section 1815.

(3) The department shall, through regulations, establish any additional requirements for the purpose of safeguarding privacy and protecting the information authorized for release under this section.

(c) The director may establish, through the adoption of regulations, the maximum amount that a qualified private industry partner may charge its customers in providing the services authorized under subdivision (a).

(d) The department may establish a transaction fee that may be charged by the department to a qualified private industry partner for the information and services provided in support of the processing and payment programs authorized under subdivision (a). The private industry partner may pass the transaction fee to the customer, but the total charge to a customer may not exceed the amount established by the director under subdivision (c).

(e) All fees collected by the department pursuant to subdivision (d) shall be deposited in the Business Partner Automation Account in the Special Deposit Fund, that is hereby established. Funds in the account shall be available, upon appropriation, to the Department of Motor Vehicles for the purpose of maintaining, monitoring, and enhancing the programs authorized under this section.

(f) The department shall adopt regulations and procedures that ensure adequate oversight and monitoring of qualified private industry partners to protect vehicle owners from the improper use of vehicle records. These regulations and procedures shall include provisions for qualified private industry partners to periodically submit records to the department, and the department shall review those records as necessary. The regulations shall

also include provisions for the dedication of department resources to program monitoring and oversight; the protection of confidential records in the department's files and data bases; and the duration and nature of the contracts with qualified private industry partners.

(g) The department shall, annually, by January 10, provide a report to the Legislature that shall include all of the following information gathered during the calendar year immediately preceding the report date:

(1) Listing of all qualified private industry partners, including names and business addresses.

(2) Volume of transactions, by type, completed by business partners.

(3) Total amount of funds, by transaction type, collected by business partners.

(4) Total amount of funds received by the department.

(5) Detailed listing of funds expended from the Special Deposit Fund.

(6) Description of any fraudulent activities identified by the department.

(7) Evaluation of the benefits of the program.

(8) Recommendations for any administrative or statutory changes that may be needed to improve the program.

(h) Nothing in this section impairs or limits the authority provided in Section 4610 or Section 12155 of the Insurance Code.

Added Sec. 3, Ch. 127, Stats. 2001. Effective July 30, 2001.

### Article 3. Records of Department

#### ***Registration and License Records***

1800. (a) The department shall file each application received for the registration of a vehicle and shall keep a record of each vehicle registered in suitable books, or on index cards as follows:

(1) Under a distinctive registration number assigned to the vehicle.

(2) Alphabetically, under the name of the owner.

(3) Under the motor or a permanent identifying number of the vehicle as may be determined by the department.

(4) In the discretion of the department, in any other manner it may deem desirable.

(b) The department shall file every application for a license to operate a motor vehicle received by it and maintain:

(1) A suitable index containing, in alphabetical order, all applications denied. On the applications shall be noted the reasons for such denial.

(2) A suitable index containing, in alphabetical order, all applications granted.

(3) A suitable index containing, in alphabetical order, the name of every licensee whose license has been suspended or revoked by the department or by a court and after each name note the reasons for the action and the period of revocation or suspension.

Amended Ch. 476, Stats. 1967. Effective November 8, 1967.

#### ***Records: Storage***

1801. (a) Whenever any notice, report, statement, court abstract, or record is required to be submitted to the department by this code, the document may be submitted to the department by electronic transmission or other means approved by the department.

(b) All records maintained by the department may be stored in any feasible manner, including, but not limited to, any electronic media or any other form of data compilation.

(c) Notwithstanding any other provision of law, the records shall be deemed original documents and shall be admissible in evidence in all



administrative, quasi-judicial, and judicial proceedings.

Repealed Ch. 1220, Stats. 1994. Effective September 30, 1994.

Added Ch. 1220, Stats. 1994. Effective September 30, 1994.

Amended Sec. 9, Ch. 10, Stats. 1996. Effective February 9, 1996.

### ***Electronically Submitted Documents***

1801.1. (a) Notwithstanding any other provision of law, the department may allow a person to submit any document required to be submitted to the department by using electronic media deemed feasible by the department instead of requiring the actual submittal of the original document.

(b) If a signature on a document is required by law in order to complete a transaction, that requirement may be waived by the department for an electronically submitted document when supported by a signed agreement between the department and the submitter. The agreement shall require, at a minimum, each document to include all information necessary to complete the transaction, certification by the submitter as to the truthfulness of all data to be transmitted to the department, and retention of supporting records by the submitter.

(c) The department may establish minimum transaction volume levels, audit and security standards, and technological requirements, or terms and conditions it deems necessary for the approval of this process.

(d) An electronically submitted document, once accepted by the department, shall be deemed the same as an original document, and shall be admissible in all administrative, quasi-judicial, and judicial proceedings.

Added Sec. 1, Ch. 440, Stats. 1996. Effective January 1, 1997.

### ***Court Records***

1802. Every judge of a court not of record shall keep a full record of every case in which a person is charged with any violation of this code.

### ***Report of Court Action: Abstract of Conviction***

1803. (a) Every clerk of a court in which a person was convicted of any violation of this code, was convicted of any violation of subdivision (a), (b), (c), (d), (e), or (f) of Section 655 of the Harbors and Navigation Code pertaining to a mechanically propelled vessel but not to manipulating any water skis, an aquaplane, or similar device, was convicted of any violation of Section 655.2, 655.6, 658, or 658.5 of the Harbors and Navigation Code, or any violation of Section 191.5 of the Penal Code when the conviction resulted from the operation of a vessel, was convicted of any offense involving use or possession of controlled substances under Division 10 (commencing with Section 11000) of the Health and Safety Code, was convicted of any felony offense when a commercial motor vehicle, as defined in subdivision (b) of Section 15210, was involved in or incidental to the commission of the offense, or was convicted of any violation of any other statute relating to the safe operation of vehicles, shall prepare within 10 days after conviction and immediately forward to the department at its office at Sacramento an abstract of the record of the court covering the case in which the person was so convicted. If sentencing is not pronounced in conjunction with the conviction, the abstract shall be forwarded to the department within 10 days after sentencing and the abstract shall be certified by the person so required to prepare it to be true and correct.

For the purposes of this section, a forfeiture of bail shall be equivalent to a conviction.

(b) The following violations are not required to be reported under subdivision (a):

(1) Division 3.5 (commencing with Section 9840).

(2) Section 21113, with respect to parking violations.

(3) Chapter 9 (commencing with Section 22500) of Division 11, except Section 22526.

(4) Division 12 (commencing with Section 24000), except Sections 24002, 24004, 24250, 24409, 24604, 24800, 25103, 26707, 27151, 27315, 27360, 27800, and 27801 and Chapter 3 (commencing with Section 26301).

(5) Division 15 (commencing with Section 35000), except Chapter 5 (commencing with Section 35550).

(6) Violations for which a person was cited as a pedestrian or while operating a bicycle or a motorized scooter.

(7) Division 16.5 (commencing with Section 38000).

(8) Subdivision (b) of Section 23221, subdivision (b) of Section 23223, subdivision (b) of Section 23225, and subdivision (b) of Section 23226.

(c) If the court impounds a license, or orders a person to limit his or her driving pursuant to paragraph (2) of subdivision (a) of Section 23538, subdivision (b) of Section 23542, subdivision (b) of Section 23562, or subdivision (d) of Section 40508, the court shall notify the department concerning the impoundment or limitation on an abstract prepared pursuant to subdivision (a) of this section or on a separate abstract, which shall be prepared within 10 days after the impoundment or limitation was ordered and immediately forwarded to the department at its office in Sacramento.

(d) If the court determines that a prior judgment of conviction of a violation of Section 23152 or 23153 is valid or is invalid on constitutional grounds pursuant to Section 41403, the clerk of the court in which the determination is made shall prepare an abstract of that determination and forward it to the department in the same manner as an abstract of record pursuant to subdivision (a).

(e) Within 10 days of an order terminating or revoking probation under Section 23602, the clerk of the court in which the order terminating or revoking probation was entered shall prepare and immediately forward to the department at its office in Sacramento an abstract of the record of the court order terminating or revoking probation and any other order of the court to the department required by law.

Amended Sec. 4, Ch. 756, Stats. 1998. Effective January 1, 1999. Operative July 1, 1999. Supersedes Ch. 118.

Amended Sec. 5, Ch. 22, Stats. 1999. Effective May 26, 1999. Operative July 1, 1999.

Amended Sec. 1, Ch. 723, Stats. 1999. Effective January 1, 2000. Supersedes Ch. 722.

Amended Sec. 17, Ch. 787, Stats. 2000. Effective January 1, 2001.

### ***Report of Conviction Reversal; Notification of Dismissal***

1803.3. (a) The clerk, or judge if there is no clerk, of any court which reverses a conviction for an offense described in subdivision (a) of Section 1803, which is not exempted under subdivision (b) of that section, shall prepare and forward to the department at its office in Sacramento an abstract of the record of the court covering the case in which the conviction was reversed. In addition, if a court dismisses a charge of a violation of Section 40508 for which a notice was given to the department pursuant to Section 40509 or 40509.5, the court shall notify the department of the dismissal.

(b) The abstract shall be forwarded within 30 days of the date the judgment of reversal becomes final. The notice of dismissal shall be given to the department not later than 30 days after the dismissal. Within 30 days of receiving the abstract or notice, the department shall remove any record of that conviction, or notice received pursuant to Section 40509 or 40509.5, from the driver's record.

(c) As used in this section, "reverse" includes any action by which a conviction is nullified or set aside.

Amended Ch. 650, Stats. 1991. Effective January 1, 1992.

**Personal Service**

1803.4. Any record regarding the providing of information pursuant to Section 13106, or record of persons personally given notice by the department or a court, by a peace officer pursuant to Section 13382 or 13388, or otherwise pursuant to this code regarding the suspension or revocation of a person's privilege to operate a motor vehicle shall, upon request, be provided as follows:

(a) Immediately to any peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, acting within the scope of his or her duties.

(b) Clearly stated on the record provided to any court of this state.

Added Sec. 1, Ch. 683, Stats. 1998. Effective January 1, 1999.

Amended Sec. 6, Ch. 22, Stats. 1999. Effective May 26, 1999.

**Report of Court Action: Traffic Violator School Attendance**

1803.5. Every clerk of a court or hearing officer, when a person who receives a notice to appear at a court or board proceeding for a violation of any statute relating to the safe operation of vehicles is granted a continuance of the proceeding in consideration for attendance at a school for traffic violators, a licensed driving school, or any other court-approved program of driving instruction, and which results in a dismissal of the complaint in consideration for that attendance, shall prepare an abstract of the record of the court or board proceeding, certify the abstract to be true and correct, and cause the abstract to be forwarded to the department at its office at Sacramento within 10 days after the complaint is dismissed.

Amended Ch. 1417, Stats. 1989. Effective January 1, 1990.

**Form of Abstract**

1804. (a) The abstract shall be made upon a form furnished or approved by the department and shall contain all necessary information to identify the defendant, including, but not limited to, the person's driver's license number, name, and date of birth, the date and nature of the offense, the vessel number, if any, of the vessel involved in the offense, the license plate number of the vehicle involved in the offense, the date of hearing, and the judgment, except that in the case of infractions where the court has not directed the department to suspend or restrict the defendant's driver's license, only the conviction and not the judgment need be set forth in the abstract. The abstract shall also indicate whether the vehicle involved in the offense is a commercial motor vehicle, as defined in subdivision (b) of Section 15210, whether the vehicle was of a type requiring the driver to have a certificate issued pursuant to Section 2512, 12517, 12519, 12523, or 12523.5 or any endorsement issued pursuant to paragraph (2) or (4) of subdivision (a) of Section 15278, and whether the vehicle was transporting hazardous material at the time of the offense, or whether the vessel involved in the offense was a recreational vessel, as defined in subdivision (bb) of Section 651 of the Harbors and Navigation Code.

(b) As to any abstract for which the original arrest and final conviction was for a violation of subdivision (b), (c), (d), (e), or (f) of Section 655 of the Harbors and Navigation Code or Section 23152 or 23153 of this code, the abstract shall contain a statement indicating the percentage of alcohol, by weight, in the person's blood whenever that percentage was determined by a chemical test. The information regarding the chemical test shall be compiled if it is available to the clerk of the court. All information required to be compiled pursuant to this subdivision shall be kept confidential in the records of the department pursuant to Section 1808.5. The department may use the information for research and statistical purposes and for determining

the eligibility of any person to operate a motor vehicle on the highways of this state. The information shall not be released to any other public or private agency, except for research and statistical summary purposes and, for those purposes, the name and address of the person and any other identifying information shall not be disclosed.

(c) The Legislature finds and declares that blood-alcohol percentages have valuable research potential in providing statistical summary information on impaired drivers but that a specific blood-alcohol percentage is only an item of evidence for purposes of criminal and licensing sanctions imposed by law. The Legislature recognizes that the accuracy of the determination of a specific blood-alcohol percentage is not the critical determination in a conviction for driving under the influence of an alcoholic beverage if the blood-alcohol percentage exceeds the statutory amount.

Amended Ch. 928, Stats. 1991. Effective January 1, 1992.

Amended Ch. 158, Stats. 1993. Effective July 21, 1993.

Amended Sec. 6, Ch. 526, Stats. 1995. Effective January 1, 1996.

### ***Failure to Comply***

1805. The failure, refusal, or neglect of any such judicial officer to comply with any of the requirements of Sections 1802, 1803, 1804 and 1816 is misconduct in office and is ground for removal therefrom.

Amended Ch. 1622, Stats. 1959. Effective September 18, 1959.

### ***Report of Accident or Conviction***

1806. (a) The department shall file all accident reports and abstracts of court records of convictions received under this code, and in connection therewith, shall maintain convenient records or make suitable notations in order that an individual record of each license showing the convictions of the licensee and all traffic accidents in which the individual was involved, except those where, in the opinion of a reporting officer, another individual was at fault, are readily ascertainable. At its discretion the department may file and maintain these accident reports and abstracts by electronic recording and storage media and after transcribing electronically all available data from the accident reports and abstracts of conviction may destroy the original documents. Notwithstanding any other provisions of law, the recorded facts from any electronic recording and storage device maintained by the department shall constitute evidence of the facts in any administrative actions instituted by the department.

(b) When the department receives notification pursuant to subdivision (c) of Section 1872.45 of the Insurance Code, the department shall remove from the license record of each victim any record of his or her involvement in the accident which is the subject of the criminal complaint.

Amended Sec. 9, Ch. 885, Stats. 1999. Effective January 1, 2000.

### ***Impoundment: Vehicle Release Agreement***

1806.1. If a person has entered into a stipulated vehicle release agreement pursuant to paragraph (2) of subdivision (d) of Section 14607.6, the department shall maintain a record of that fact for seven years from the date the person signed the agreement.

Added Ch. 1133, Stats. 1994. Effective January 1, 1995.

### ***Confidential Records: Credit Report***

1806.5. Notwithstanding Section 1808, the department shall not furnish information filed pursuant to Section 1806 to any person if the furnishing of that information would violate the federal Fair Credit Reporting Act (15 U.S.C. Sec. 1681 et seq.).

Added Ch. 1117, Stats. 1986. Effective January 1, 1987.

***Destruction of Records***

1807. The department is not required to maintain records relating to drivers of motor vehicles after the records are, in the opinion of the director, no longer necessary, except that records of convictions shall be maintained so long as they may form the basis of license suspensions or revocations as prior convictions or with other records of conviction constitute a person a “negligent driver.”

Records which are not required to be maintained may be destroyed with the approval of the Department of General Services.

Amended Ch. 371, Stats. 1965. Effective September 17, 1965.

***Release of Conviction Information***

1807.5. (a) Notwithstanding Section 1808, any record of the department of a conviction of Section 23103 as specified in Section 23103.5, or of a conviction of Section 23152 or 23153 which occurred before January 1, 1987, is not a public record on and after a date which is five years after the date of conviction of that offense, and the department shall, thereafter, make any information relating to that conviction available only to persons authorized by law to receive the information.

(b) For the purposes of this section, “persons authorized by law to receive the information” means any of the following:

- (1) The courts of the state.
- (2) Peace officers, as defined in Section 830.1 of the Penal Code; subdivision (a) of Section 830.2 of the Penal Code; subdivisions (a), (b), and (j) of Section 830.3 of the Penal Code; and subdivisions (a), (b), and (c) of Section 830.5 of the Penal Code.
- (3) The Attorney General.
- (4) District attorneys of any county within the state.
- (5) Prosecuting city attorneys of any city within the state.
- (6) Probation officers of any city or county of the state.
- (7) Parole officers of any city or county of the state.

Amended Sec. 10, Ch. 828, Stats. 1998. Effective January 1, 1999. Supersedes Ch. 606.

***Records Open to Public Inspection***

1808. (a) Except where a specific provision of law prohibits the disclosure of records or information or provides for confidentiality, all records of the department relating to the registration of vehicles, other information contained on an application for a driver's license, abstracts of convictions, and abstracts of accident reports required to be sent to the department in Sacramento, except for abstracts of accidents where, in the opinion of a reporting officer, another individual was at fault, shall be open to public inspection during office hours. All abstracts of accident reports shall be available to law enforcement agencies and courts of competent jurisdiction.

(b) The department shall make available or disclose abstracts of convictions and abstracts of accident reports required to be sent to the department in Sacramento, as described in subdivision (a), if the date of the occurrence is not later than the following:

(1) Seven years for any violation designated as two points pursuant to Section 12810.

(2) Three years for accidents and all other violations.

(c) The department shall make available or disclose suspensions and revocations of the driving privilege while the suspension or revocation is in effect and for three years following termination of the action or reinstatement of the privilege, except that driver's license suspension actions taken pursuant to Sections 13202.6 and 13202.7, or Section 256 or 11350.6 of the Welfare and Institutions Code shall be disclosed only during the actual

time period in which the suspension is in effect.

(d) The department shall not make available or disclose any suspension or revocation that has been judicially set aside or stayed.

(e) The department shall not make available or disclose personal information about any person unless the disclosure is in compliance with the Driver's Privacy Protection Act of 1994 (18 U.S.C. Sec. 2721 et seq.). However, any disclosure is subject to the prohibition in paragraph (2) of subdivision (a) of Section 12800.5.

***(f) The department shall make available or disclose to the courts and law enforcement agencies any conviction of Section 23152, 23153, or paragraph (1) of subdivision (c) of Section 192 of the Penal Code, punished as a felony for a period of 10 years from the date of the offense for the purpose of imposing penalties mandated by Section 23550.5, or by any other applicable provisions of California law.***

***(g)*** The department shall make available or disclose to the courts and law enforcement agencies any conviction of ( ) Section 191.5, or paragraph (3) of subdivision (c) of Section 192 of the Penal Code, punished as a felony, for the purpose of imposing penalties mandated by Section 23550.5, or by any other applicable provisions of California law.

Amended Sec. 7, Ch. 619, Stats. 1997. Effective January 1, 1998.

Amended Sec. 1, Ch. 489, Stats. 1999. Effective January 1, 2000.

Amended Sec. 17, Ch. 473, Stats. 2001. Effective January 1, 2002.

Amended Sec. 6, Ch. 545, Stats. 2002. Effective January 1, 2003.

The 2002 amendment added the italicized material, and at the point(s) indicated, deleted the following "Section 23152, 23153, or Section 191.5 or paragraph (1) or (3) of subdivision (c) of Section 192 of the Penal Code, punished as a felony for a period of 10 years from the date of the offense for the "

### ***Employer Notification***

1808.1. (a) The prospective employer of a driver who drives any vehicle specified in subdivision (k) shall obtain a report showing the driver's current public record as recorded by the department. For purposes of this subdivision, a report is current if it was issued less than 30 days prior to the date the employer employs the driver. The report shall be reviewed, signed, and dated by the employer and maintained at the employer's place of business until receipt of the pull-notice system report pursuant to subdivisions (b) and (c). These reports shall be presented upon request to any authorized representative of the Department of the California Highway Patrol during regular business hours.

(b) The employer of a driver who drives any vehicle specified in subdivision (k) shall participate in a pull-notice system, which is a process for the purpose of providing the employer with a report showing the driver's current public record as recorded by the department, and any subsequent convictions, failures to appear, accidents, driver's license suspensions, driver's license revocations, or any other actions taken against the driving privilege or certificate, added to the driver's record while the employer's notification request remains valid and uncanceled. As used in this section, participation in the pull-notice system means obtaining a requester code and enrolling all employed drivers who drive any vehicle specified in subdivision (k) under that requester code.

(c) The employer of a driver of any vehicle specified in subdivision (k) shall, additionally, obtain a periodic report from the department at least every 12 months. The employer shall verify that each employee's driver's license has not been suspended or revoked, the employee's traffic violation point count, and whether the employee has been convicted of a violation of Section 23152 or 23153. The report shall be signed and dated by the employer and maintained at the employer's principal place of business. The reports shall be presented upon demand to any authorized representative of the

Department of the California Highway Patrol during regular business hours.

(d) Upon the termination of a driver's employment, the employer shall notify the department to discontinue the driver's enrollment in the pull-notice system.

(e) For the purposes of the pull-notice system and periodic report process required by subdivisions (b) and (c), owners, other than owner-operators as defined in Section 34624, and employers who drive vehicles described in subdivision (k) shall be enrolled as if they were employees. Family members and volunteer drivers who drive vehicles described in subdivision (k) shall also be enrolled as if they were employees.

(f) An employer who, after receiving any driving record pursuant to this section, employs or continues to employ as a driver any person against whom a disqualifying action has been taken regarding his or her driving privilege or required driver's certificate, is guilty of a public offense, and upon conviction thereof, shall be punished by confinement in a county jail for not more than six months, by a fine of not more than one thousand dollars (\$1,000), or by both that confinement and fine.

(g) As part of its inspection of bus maintenance facilities and terminals required at least once every 13 months pursuant to subdivision (c) of Section 34501, the Department of the California Highway Patrol shall determine whether each transit operator, as defined in Section 99210 of the Public Utilities Code, is then in compliance with this section and Section 12804.6, and shall certify each operator found to be in compliance. No funds shall be allocated under Chapter 4 (commencing with Section 99200) of Part 11 of Division 10 of the Public Utilities Code to a transit operator which the Department of the California Highway Patrol has not certified under this section.

(h) A request to participate in the pull-notice system established by this section shall be accompanied by a fee determined by the department to be sufficient to defray the entire actual cost to the department for the notification service. For the receipt of subsequent reports, the employer shall also be charged a fee established by the department pursuant to Section 1811. Any employer who qualifies under Section 1812 shall be exempt from any fee required under this section. Failure to pay the fee shall result in automatic cancellation of the employer's participation in the notification services.

(i) The department, as soon as feasible, may establish an automatic procedure to provide the periodic reports to employers by mail or via an electronic delivery method, as required by subdivision (c), on a regular basis without the need for individual requests.

(j) (1) The employer of a driver who is employed as a casual driver is not required to enter that driver's name in the pull-notice system, as otherwise required by subdivision (a). However, the employer of a casual driver shall be in possession of a report of the driver's current public record as recorded by the department, prior to allowing a casual driver to drive any vehicle specified in subdivision (k). A report is current if it was issued less than six months prior to the date the employer employs the driver.

(2) For the purposes of this subdivision, a driver is employed as a casual driver when the employer has employed the driver less than 30 days during the preceding six months. "Casual driver" does not include any driver who operates a vehicle that requires a passenger transportation endorsement.

(k) This section applies to any vehicle for the operation of which the driver is required to have a class 1, class 2, class A, or class B driver's license, a class C license with a hazardous materials endorsement, **a class C license issued pursuant to Section 12814.7**, or a certificate issued pursuant to

Section ( ) **12512**, 12517, 12519, 12520, 12523, or 12523.5, or any passenger vehicle having a seating capacity of not more than 10 persons, including the driver, operated for compensation by a charter-party carrier of passengers or passenger stage corporation pursuant to a certificate of public convenience and necessity or a permit issued by the Public Utilities Commission.

(j) This section shall not be construed to change the definition of “employer,” “employee,” or “independent contractor” for any purpose.

(m) A motor carrier who contracts with any person to drive any vehicle described in subdivision (k) which is owned by, or leased to, that motor carrier, shall be subject to subdivisions (a), (b), (c), (d), (f), (j), (k), and (l) and the employer obligations therein.

Amended Sec. 49, Ch. 1042, Stats. 1996. Effective September 29, 1996.

Amended Sec. 9, Ch. 652, Stats. 1997. Effective January 1, 1998.

Amended Sec. 5, Ch. 1035, Stats. 2000. Effective January 1, 2001.

Amended Sec. 1, Ch. 418, Stats. 2002. Effective January 1, 2003.

The 2002 amendment added the italicized material, and at the point(s) indicated, deleted the following “2512”

### ***Confidential Records: Address of Peace Officer***

1808.2. In addition to those specified in Section 1808.4, the home address of any inspector or investigator regularly employed and paid as such in the office of a district attorney or any peace officer employee of the Board of Prison Terms appearing in any record of the department is confidential.

Added Ch. 616, Stats. 1980. Effective January 1, 1981. Operative July 1, 1981.

### ***Confidential and Suppressed Records***

1808.21. (a) Any residence address in any record of the department is confidential and shall not be disclosed to any person, except a court, law enforcement agency, or other government agency, or as authorized in Section 1808.22 or 1808.23.

(b) Release of any mailing address or part thereof in any record of the department may be restricted to a release for purposes related to the reasons for which the information was collected, including, but not limited to, the assessment of driver risk, or ownership of vehicles or vessels. This restriction does not apply to a release to a court, a law enforcement agency, or other governmental agency, or a person who has been issued a requester code pursuant to Section 1810.2.

(c) Any person providing the department with a mailing address shall declare, under penalty of perjury, that the mailing address is a valid, existing, and accurate mailing address and shall consent to receive service of process pursuant to subdivision (b) of Section 415.20, subdivision (a) of Section 415.30, and Section 416.90 of the Code of Civil Procedure at the mailing address.

(d) (1) Any registration or driver’s license record of a person may be suppressed from any other person, except those persons specified in subdivision (a), if the person requesting the suppression submits verification acceptable to the department that he or she has reasonable cause to believe either of the following:

(A) That he or she is the subject of stalking, as specified in Section 1708.7 of the Civil Code or Section 646.9 of the Penal Code.

(B) That there exists a threat of death or great bodily injury to his or her person, as defined in Section 12022.7 of the Penal Code.

(2) Upon suppression of a record, each request for information about that record shall be authorized by the subject of the record or verified as legitimate by other investigative means by the department before the information is released.

(e) Suppression of a record pursuant to subdivision (d) shall occur for one



year after approval by the department. Not less than 60 days prior to the date the suppression of the record would otherwise expire, the department shall notify the subject of the record of its impending expiration. The suppression may be continued for two additional periods of one year each if a letter is submitted to the department stating that the person continues to have a reasonable cause to believe that he or she is the subject of stalking or that there exists a threat of death or great bodily injury as described in subparagraph (B) of paragraph (1) of subdivision (d). The suppression may be additionally continued at the end of the second one-year period by submitting verification acceptable to the department. The notification described in this subdivision shall instruct the person of the method to reapply for record suppression.

(f) For the purposes of subdivisions (d) and (e), “verification acceptable to the department” means recent police reports, court documentation, or other documentation from a law enforcement agency.

Amended Ch. 395, Stats. 1994. Effective January 1, 1995.

Amended Sec. 1.5, Ch. 440, Stats. 1996. Effective January 1, 1997.

Amended Sec. 1, Ch. 1008, Stats. 2000. Effective January 1, 2001.

Amended Sec. 66, Ch. 854, Stats. 2001. Effective January 1, 2002.

***Exemption: Financial Institution, Insurance Company,  
and Attorney***

1808.22. (a) Section 1808.21 does not apply to a financial institution licensed by the state or federal government to do business in the State of California which states under penalty of perjury that it has obtained a written waiver of Section 1808.21 signed by the individual whose address is requested, or to providing the address of any person who has entered into an agreement held by that institution prior to July 1, 1990, so long as that agreement remains in effect.

(b) Section 1808.21 does not apply to an insurance company licensed to do business in California when the company, under penalty of perjury, requests the information for the purpose of obtaining the address of another motorist or vehicle owner involved in an accident with their insured, or requests the information on an individual who has signed a written waiver of Section 1808.21 or the individuals insured under a policy if a named insured of that policy has signed a written waiver.

(c) Section 1808.21 does not apply to an attorney when the attorney states, under penalty of perjury, that the motor vehicle or vessel registered owner or driver residential address information is necessary in order to represent his or her client in a criminal or civil action which directly involves the use of the motor vehicle or vessel that is pending, is to be filed, or is being investigated. Information requested pursuant to this subdivision is subject to all of the following:

(1) The attorney shall state that the criminal or civil action that is pending, is to be filed, or is being investigated relates directly to the use of that motor vehicle or vessel.

(2) The case number, if any, or the names of expected parties to the extent they are known to the attorney requesting the information, shall be listed on the request.

(3) A residence address obtained from the department shall not be used for any purpose other than in furtherance of the case cited or action to be filed or which is being investigated.

(4) If no action is filed within a reasonable time, the residence address information shall be destroyed.

(5) No attorney shall request residence address information pursuant to this subdivision in order to sell the information to any person.

(6) Within 10 days of receipt of a request, the department shall notify every individual whose residence address has been requested pursuant to this subdivision.

(d) A knowing violation of paragraph (1), (2), (3), (4), or (5) of subdivision (c) is a misdemeanor. A knowing violation of paragraph (1), (2), (3), (4), or (5) of subdivision (c) in furtherance of another crime is subject to the same penalties as that other crime.

Amended Sec. 2, Ch. 440, Stats. 1996. Effective January 1, 1997.

***Exemption: Vehicle Manufacturers, Dealers, and Statistical Purposes***

1808.23. (a) Section 1808.21 does not apply to a vehicle manufacturer licensed to do business in this state if the manufacturer, or its agent, under penalty of perjury, requests and uses the information only for the purpose of safety, warranty, including a warranty issued in compliance with Section 1795.92 of the Civil Code, emission, or product recall if the manufacturer offers to make and makes any changes at no cost to the vehicle owner.

(b) Section 1808.21 does not apply to a dealer licensed to do business in this state if the dealer, or its agent, under penalty of perjury, requests and uses the information only for the purpose of completing registration transactions and documents.

(c) Section 1808.21 does not apply to a person who, under penalty of perjury, requests and uses the information as permitted under subdivision (h) of Section 1798.24 of the Civil Code, if the request specifies that no persons will be contacted by mail or otherwise at the address included with the information released. The information released by the department under this subdivision shall not be in a form that identifies any person.

(d) Residential addresses released shall not be used for direct marketing or solicitation for the purchase of any consumer product or service.

Amended Ch. 814, Stats. 1993. Effective January 1, 1994.

Amended Sec. 9, Ch. 929, Stats. 1995. Effective January 1, 1996.

Amended Sec. 3, Ch. 440, Stats. 1996. Effective January 1, 1997.

***Financial Responsibility: Disclosure***

1808.24. Information regarding any motor vehicle liability insurance policy or surety bond provided to the department pursuant to Section 4000.37 or provided electronically is confidential and shall not be disclosed to any person, except to the following:

(a) A court of competent jurisdiction.

(b) A law enforcement or other governmental agency.

(c) An insurance company or its assigns to verify a record the company or its assigns previously submitted to the department.

(d) A person whose vehicle or property has been involved in an accident reported to the department, or who suffered bodily injury or death in an accident reported to the department, pursuant to Chapter 1 (commencing with Section 16000) of Division 7, or the person's authorized representative, employer, parent, or legal guardian.

Added Sec. 2, Ch. 880, Stats. 1999. Effective January 1, 2000.

***Parking Restrictions: Residence Address***

1808.25. (a) The department shall implement a pilot program to provide residence address information to an accredited degree-granting nonprofit independent institution of higher education incorporated in the state, that has concluded a memorandum of understanding pursuant to subdivision (b) of Section 830.7 of the Penal Code if, under penalty of perjury, the institution requests and uses the information solely for the purpose of enforcing parking restrictions.

(b) The memorandum of understanding executed by the sheriff or chief of

police within whose jurisdiction the independent institution is located shall expressly permit the institution to enforce parking restrictions pursuant to subdivision (b) of Section 830.7 of the Penal Code.

For the purposes of this subdivision, a participating institution shall enter into a contractual agreement with the department that, at a minimum, requires the institution to do all of the following:

(1) Establish and maintain procedures, to the satisfaction of the department, for persons to contest parking violation notices issued by the institution.

(2) Remit a fee, as determined by the department, to cover the department's costs of providing each address to the institution.

(3) Agree that access to confidential residence address information from the department's vehicle registration database will be provided only through an approved commercial requester account.

(c) The director may terminate a contract authorized by subdivision (b) at any time the department determines that the independent institution of higher education fails to maintain adequate safeguards to ensure that the operation of the program does not adversely affect those individuals whose records are maintained in the department's files, or that the information is used for any purpose other than that specified in subdivision (a).

(d) Sections 1808.45, 1808.46, and 1808.47 are applicable to persons who obtain department records pursuant to this section and the department may pursue any appropriate civil or criminal action against any individual at an independent institution who violates the provisions of this section.

(e) For purposes of this Article only, any confidential information obtained from the department for administration or enforcement of this Article shall be held confidential, except to the extent necessary for the enforcement of parking restrictions, and may not be used for any purpose other than the administration or enforcement of parking restrictions.

(f) The department shall submit a report to the Legislature containing its evaluation of the pilot program which shall include a recommendation as to the advisability of continuing the program. The report shall be submitted on or before January 1, 2003.

(g) This section shall remain in effect only until January 1, 2004, and as of that date is repealed unless a later enacted statute, that is enacted before January 1, 2004, deletes or extends that date.

Added and repealed Sec. 2, Ch. 885, Stats. 1998. Effective January 1, 1999. Repeal operative January 1, 2002.

Amended Sec. 1, Ch. 676, Stats. 2001. Effective January 1, 2002.

**NOTE: The preceding section shall remain in effect only until January 1, 2004, and as of that date is repealed.**

### ***Confidential Records: Address of Public Officers***

1808.4. (a) The home address of any of the following persons, that appears in any record of the department, is confidential, if the person requests the confidentiality of that information:

- (1) Attorney General.
- (2) State public defender.
- (3) Members of the Legislature.
- (4) Judges or court commissioners.
- (5) District attorneys.
- (6) Public defenders.

(7) Attorneys employed by the Department of Justice, the office of the State Public Defender, or a county office of the district attorney or public defender.

(8) City attorneys and attorneys who submit verification from their public

employer that they represent the city in matters that routinely place them in personal contact with persons under investigation for, charged with, or convicted of, committing criminal acts, if those attorneys are employed by city attorneys.

(9) Nonsworn police dispatchers.

(10) Child abuse investigators or social workers, working in child protective services within a social services department.

(11) Active or retired peace officers, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code.

(12) Employees of the Department of Corrections, the Department of the Youth Authority, or the Prison Industry Authority specified in Sections ( ) <sup>1</sup> **20403 and 20405** of the Government Code.

(13) Nonsworn employees of a city police department, a county sheriff's office, the Department of the California Highway Patrol, federal, state, and local detention facilities, and local juvenile halls, camps, ranches, and homes, who submit agency verification that, in the normal course of their employment, they control or supervise inmates or are required to have a prisoner in their care or custody.

(14) County counsels assigned to child abuse cases.

(15) Investigators employed by the Department of Justice, a county district attorney, or a county public defender.

(16) Members of a city council.

(17) Members of a board of supervisors.

(18) Federal prosecutors and criminal investigators and National Park Service Rangers working in this state.

(19) Any active or retired city enforcement officer engaged in the enforcement of the Vehicle Code or municipal parking ordinances.

(20) Any employee of a trial court.

(21) Any psychiatric social worker employed by a county.

(22) Any police or sheriff department employee designated by the Chief of Police of the department or the sheriff of the county as being in a sensitive position. Any designation pursuant to this paragraph shall, for purposes of this section, remain in effect for three years subject to additional designations that, for purposes of this section, shall remain in effect for additional three-year periods.

**(23) State employees in the following classifications:**

**(A) Licensing Registration Examiner, Department of Motor Vehicles.**

**(B) Motor Carrier Specialist 1, California Highway Patrol.**

**(C) Museum Security Officer and Supervising Museum Security Officer.**

**(24)** (A) The spouse or child of any person listed in paragraphs (1) to ( ) <sup>2</sup> **(23)**, inclusive, regardless of the spouse's or child's place of residence.

(B) The surviving spouse or child of a peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, if the peace officer died in the line of duty.

(b) The confidential home address of any of the persons listed in subdivision (a) shall not be disclosed to any person, except for any of the following:

(1) A court.

(2) A law enforcement agency.

(3) The State Board of Equalization.

(4) An attorney in a civil or criminal action that demonstrates to a court the need for the home address, if the disclosure is made pursuant to a subpoena.

(5) Any governmental agency to which, under any provision of law, information is required to be furnished from records maintained by the department.

(c) Any record of the department containing a confidential home address shall be open to public inspection, as provided in Section 1808, if the address is completely obliterated or otherwise removed from the record. The home address shall be withheld from public inspection for three years following termination of office or employment except with respect to retired peace officers, whose home addresses shall be withheld from public inspection permanently upon request of confidentiality at the time the information would otherwise be opened. The home address of the surviving spouse or child listed in subparagraph (B) of paragraph ( ) <sup>3</sup> (24) of subdivision (a) shall be withheld from public inspection for three years following the death of the peace officer. The department shall inform any person who requests a confidential home address what agency the individual whose address was requested is employed by or the court at which the judge or court commissioner presides.

(d) A violation of subdivision (a) by the disclosure of the confidential home address of a peace officer, as specified in paragraph (11) of subdivision (a), a nonsworn employee of the city police department or county sheriff's office, or the spouses or children of these persons, including, but not limited to, the surviving spouse or child listed in subparagraph (B) of paragraph ( ) <sup>3</sup> (24) of subdivision (a), that results in bodily injury to the peace officer, employee of the city police department or county sheriff's office, or the spouses or children of these persons is a felony.

Amended Sec. 3, Ch. 809, Stats. 2001. Effective January 1, 2002.

Amended Sec. 47, Ch. 1, Stats. 2002. Effective January 15, 2002.

The 2002 amendment added the italicized material, and at the point(s) indicated, deleted the following:

1. "20017.77 and 20017.79"
2. "22"
3. "23"

### ***Unauthorized Disclosure: Misdemeanor***

1808.45. The willful, unauthorized disclosure of information from any department record to any person, or the use of any false representation to obtain information from a department record or any use of information obtained from any department record for a purpose other than the one stated in the request or the sale or other distribution of the information to a person or organization for purposes not disclosed in the request is a misdemeanor, punishable by a fine not exceeding five thousand dollars (\$5,000) or by imprisonment in the county jail not exceeding one year, or both fine and imprisonment.

Added Ch. 1213, Stats. 1989. Effective January 1, 1990.

### ***Unauthorized Access or Distribution: Civil Penalty***

1808.46. No person or agent shall directly or indirectly obtain information from the department files using false representations or distribute restricted or confidential information to any person or use the information for a reason not authorized or specified in a requester code application. Any person who violates this section, in addition to any other penalty provided in this code, is liable to the department for civil penalties up to one hundred thousand dollars (\$100,000) and shall have its requester code privileges suspended for a period of up to five years, or revoked. The regulatory agencies having jurisdiction over any licensed person receiving information pursuant to this chapter shall implement procedures to review the procedures of any licensee which receives information to ensure

compliance with the limitations on the use of information as part of the agency's regular oversight of the licensees. The agency shall report noncompliance to the department.

Amended Ch. 1635, Stats. 1990. Effective September 30, 1990. Supersedes Ch. 431

### ***Protection of Confidentiality***

1808.47. Any person who has access to confidential or restricted information from the department shall establish procedures to protect the confidentiality of those records. If any confidential or restricted information is released to any agent of a person authorized to obtain information, the person shall require the agent to take all steps necessary to ensure confidentiality and prevent the release of any information to a third party. No agent shall obtain or use any confidential or restricted records for any purpose other than the reason the information was requested.

Amended Sec. 4, Ch. 440, Stats. 1996. Effective January 1, 1997.

Amended Sec. 3, Ch. 880, Stats. 1999. Effective January 1, 2000.

### ***Confidential Records: Physical, Mental Condition; Controlled Substance Offenses***

1808.5. Except as provided in Section 22511.58, all records of the department relating to the physical or mental condition of any person, and convictions of any offense involving the use or possession of controlled substances under Division 10 (commencing with Section 11000) of the Health and Safety Code not arising from circumstances involving a motor vehicle, are confidential and not open to public inspection.

Amended Sec. 4, Ch. 766, Stats. 1995. Effective January 1, 1996.

Amended Sec. 11, Ch. 828, Stats. 1998. Effective January 1, 1999.

### ***Confidential Records***

1808.6. (a) In addition to those specified in Section 1808.4, the home address of any of the following persons, that appears in any record of the department, is confidential, if the person requests the confidentiality of that information:

(1) The chairperson, executive officer, commissioners, and deputy commissioners of the Board of Prison Terms.

(2) The chairperson, members, executive director, and hearing representatives of the Youthful Offender Parole Board.

(3) The spouse or children of persons listed in this section, regardless of the spouse's or child's place of residence.

(b) The confidential home address of any of the persons listed in subdivision (a) shall not be disclosed to any person, except a court, a law enforcement agency, the State Board of Equalization, or any governmental agency to which, under any provision of law, information is required to be furnished from records maintained by the department.

(c) Any record of the department containing a confidential home address shall be open to public inspection, as provided in Section 1808, if the address is completely obliterated or otherwise removed from the record. The home address shall be withheld from public inspection for three years following termination of office or employment, except with respect to retired peace officers, whose home addresses shall be withheld from public inspection permanently upon request of confidentiality at the time the information would otherwise be opened. The department shall inform any person who requests a confidential home address of the name of the agency that employs the individual whose address was requested.

Added Ch. 525, Stats. 1993. Effective January 1, 1994.

Amended Sec. 170, Ch. 91, Stats. 1995. Effective January 1, 1996.

Amended Sec. 1, Ch. 880, Stats. 1996. Effective January 1, 1997.

***Confidential Records: Traffic Violator School Attendance***

1808.7. The record of the department relating to the first proceeding and dismissal under Section 1803.5 in any 18-month period for participation by a person in a licensed school for traffic violators, a licensed driving school, or any other court-approved program of driving instruction, is confidential, shall not be disclosed to any person, except a court, and shall be used only for statistical purposes by the department.

Amended Ch. 93, Stats. 1990. Effective May 16, 1990.

***Carrier Notification***

1808.8. (a) Dismissal of any driver certified pursuant to Section 12517, 12523, 12523.5, for a cause relating to pupil transportation safety, shall be reported by the carrier to the department within five days of the dismissal date.

(b) Reinstatement of any driver whose dismissal has been reported under subdivision (a) shall be reported by the carrier to the department within five days of the reinstatement date.

Added Ch. 359, Stats. 1989. Effective January 1, 1990.

***Confidential Records: Continued Eligibility***

1808.9. (a) Except for retired peace officers whose home address is permanently withheld from public inspection under subdivision (c) of Section 1808.4 or subdivision (c) of Section 1808.6, a person whose home address is confidential in any record of the department under Section 1808.2, 1808.4, or 1808.6 may be required by the department to demonstrate his or her continued eligibility for that confidentiality upon renewal of a driver's license or identification card issued by the department. Not later than 90 days prior to the expiration of a driver's license or identification card, the department shall notify the person whose record is confidential of any requirement to demonstrate the continued eligibility.

(b) A person whose driver's license or identification card is renewed within one year of the first request for address confidentiality under this section shall not be required to demonstrate his or her eligibility for that confidentiality again until the subsequent renewal.

Added Sec. 2, Ch. 880, Stats. 1996. Effective January 1, 1997.

***Traffic Accident Information***

1809. The department may prepare and disseminate information relating to prevention of traffic accidents.

***Sale of Information: Identification of Requester;  
Notification of Subject***

1810. (a) Except as provided in Sections 1806.5, 1808.2, 1808.4, 1808.5, 1808.7, 1808.8, and paragraph (2) of subdivision (a) of Section 12800.5, the department may permit inspection of, or sell, or both, information from its records concerning the registration of any vehicle or information from the files of drivers' licenses at a charge sufficient to pay ***at least*** the actual cost to the department for providing the inspection or sale of the information, including, but not limited to, costs incurred by the department in carrying out subdivision (b), with the charge for the information to be determined by the director. This section does not apply to statistical information of the type previously compiled and distributed by the department.

(b) (1) With respect to the inspection or sale of information concerning the registration of any vehicle or of information from the files of drivers' licenses, the department shall, by regulation, establish administrative procedures under which any person making a request for that information

shall be required to identify himself or herself and state the reason for making the request. The procedures shall provide for the verification of the name and address of the person making a request for the information, and the department may require the person to produce that information as it determines is necessary to ensure that the name and address of the person is the true name and address. The procedures may provide for a 10-day delay in the release of the requested information. The procedures shall also provide for notification to the person to whom the information primarily relates, as to what information was provided and to whom it was provided. The department shall, by regulation, establish a reasonable period of time for which a record of all the foregoing shall be maintained.

(2) The procedures required by this subdivision do not apply to any governmental entity, any person who has applied for and has been issued a requester code by the department, or any court of competent jurisdiction.

(c) With respect to the inspection or sale of information from the files of drivers' licenses, the department may require both the full name of the driver and either the driver's license number or date of birth as identifying points of the record, except that the department may disclose a record without two identifying points if the department determines that the public interest in disclosure outweighs the public interest in personal privacy.

(d) With respect to the inspection or sale of information from the files of drivers' licenses, certificates of ownership, and registration cards, the department shall not, for a fee or otherwise, allow copying by the public.

Amended Sec. 116, Ch. 124, Stats. 1996. Effective January 1, 1997.

Amended Sec. 8, Ch. 619, Stats. 1997. Effective January 1, 1998.

Amended Sec. 2, Ch. 489, Stats. 1999. Effective January 1, 2000.

Amended Sec. 10, Ch. 805, Stats. 2002. Effective September 22, 2002.

The 2002 amendment added the italicized material.

### ***Commercial Requester Accounts; Requester Codes***

1810.2. (a) The department may establish commercial requester accounts for individuals or organizations and issue requester codes for the purpose of obtaining information from the department's files, except as prohibited by Section 1808.21.

(b) Commercial requester account applications shall include the requester's name, address, type of business, a specific reason for requesting information, and the name of the person responsible for the business or firm.

(c) The department shall establish a commercial requester account when it determines that the applicant has a legitimate business need for the information requested and when the applicant files a bond in the amount of fifty thousand dollars (\$50,000) and pays a two hundred fifty dollar (\$250) filing fee. If the applicant does not request and is not issued a requester code permitting the applicant access to residence address information, only a filing fee of fifty dollars (\$50) shall be required with the original application and each biennial renewal application.

(d) An individual requester code shall be issued for a period not to exceed five years and may be renewed upon application for additional periods not to exceed five years each.

(e) A requester code may be denied to any person unless the proposed use of the information from department records is related to legitimate business or commercial purposes of that person. A requester code may be canceled immediately if the requested information is used for a purpose other than the purpose for which the requester code was issued.

Amended Ch. 579, Stats. 1991. Effective January 1, 1992.

### ***Access to Records***

1810.5. The Attorney General, district attorneys, law enforcement



agencies, public defenders, and public defender investigators shall have access, including, but not limited to, telephone access, to department records which are open to the public on an equal basis.

Added Ch. 1056, Stats. 1986. Effective January 1, 1987.

### ***Direct Computer Access: Permit***

1810.7. (a) Except as provided in Sections 1806.5, 1808.2, 1808.4, 1808.5, 1808.7, and 1808.21, the department may, by special permit, authorize any person to access the department's electronic ( ) <sup>1</sup> **database**, as provided for in this section, for the purpose of obtaining ( ) <sup>2</sup> information for commercial use.

(b) The department may limit the number of permits issued under this section, and may restrict, or establish priority for, access to its files as the department deems necessary to avoid disruption of its normal operations, or as the department deems is in the best interest of the public.

(c) The department may establish minimum volume levels, audit and security standards, and technological requirements, or any terms and conditions it deems necessary for the permits.

(d) As a condition of issuing a permit pursuant to this section, the department shall require each direct-access permittee to file a performance bond or other financial security acceptable to the department, in an amount the department deems appropriate.

(e) The department shall charge fees for direct-access service permits, and shall charge fees pursuant to Section ( ) <sup>3</sup> **1810** for any information copied from the files.

(f) The department shall ensure that information provided pursuant to this section includes only the public portions of records.

(g) The director shall, on and after January 1, 1992, report every three years to the Legislature on the implementation of this section. The report shall include the number and location of direct-access permittees, the volume and nature of direct-access inquiries, procedures the department has taken to ensure the security of its files, and the costs and revenues associated with the project.

(h) The department shall establish procedures to ensure confidentiality of any records of residence addresses and mailing addresses as required by Sections 1808.21, 1808.22, 1808.45, 1808.46, and 1810.2.

Amended Sec. 224, Ch. 745, Stats. 2001. Effective October 11, 2001.

Amended Sec. 11, Ch. 805, Stats. 2002. Effective September 22, 2002.

The 2002 amendment added the italicized material, and at the point(s) indicated, deleted the following:

1. "data base"
2. "vehicle registration"
3. "1810"

### ***Sale of Records***

1811. The department may sell copies of all or any part of its records at a charge sufficient to pay at least the entire actual cost to the department of the copies, the charge for the records and the conditions under which they may be sold to be determined by the director.

Amended Ch. 216, Stats. 1961. Effective September 15, 1961.

### ***Free to Governmental Agencies***

1812. The department shall not charge for copies of records or for information from its records given to any county, city, any transit operator as defined in Section 99210 of the Public Utilities Code, state department, or the United States government.

Amended Ch. 726, Stats. 1987. Operative July 1, 1988.

**Free Records**

1813. The director and such officers of the department as he may designate may, upon request, prepare under the seal of the department and deliver without charge a certified copy of any record of the department received or maintained under this code.

**Automobile Registration Service**

1814. Any person engaged in the business of examining the records of the department and supplying information relative thereto to the public for compensation shall first obtain a permit from the director. The director shall grant such a permit when he determines that the applicant is qualified and intends in good faith to carry on such business, and when the applicant files with the director a bond in the amount of five thousand dollars (\$5,000).

**Bond**

1815. The bond shall be to the satisfaction of the director and shall obligate the principal and sureties to compensate the officers of the department and any other person who may suffer loss or damage by reason of any failure or neglect of the principal, the principal's agents, or employees to preserve carefully and surrender any records examined in the department and by reason of any act of the principal, the principal's agents, or employees in respect to the loss, alteration, substitution, or mutilation of any records of the department.

Amended Ch. 517, Stats. 1982. Effective January 1, 1983.

**Juvenile Traffic Offender: Report to Department**

1816. Every judge of the juvenile court, juvenile traffic hearing officer, duly constituted referee of a juvenile court, or other person responsible for the disposition of cases involving traffic offenses required to be reported under Section 1803 committed by persons under 18 years of age shall keep a full record of every case in which a person is charged with such a violation, and shall report the offense to the department at its office in Sacramento not more than 30 days after the date on which it was committed, and in no case less than 10 days after adjudication. The report required by this section shall be required for any determination that a minor committed the violation, including any determination that because of the act the minor is a person described in Section 601 or 602 of the Welfare and Institutions Code or that a program of supervision should be instituted for the minor. No report shall be made if it is found that the alleged offense was not committed.

The report required by this section shall be made upon a form furnished by the department and shall contain all necessary information as to the identity of the offender, the arresting agency, the date and nature of the offense, and the date the finding was made.

Amended Ch. 1465, Stats. 1989. Effective January 1, 1990.

**Information to Department of Forestry and Fire Protection**

1817. Written allegations received by the department from members of the public identifying motor vehicles or other vehicles by license number from which any flaming or glowing substance has been thrown, or discharged, shall be forwarded to the Department of Forestry and Fire Protection together with any information as to the identity of the registered owner of the vehicle as shown by the records of the department.

Amended Ch. 427, Stats. 1992. Effective January 1, 1993.

**Vehicle License Notation on Abstract**

1818. Any record of, or information from any record concerning, an abstract of conviction kept by the department shall contain an appropriate

notation indicating the commercial or noncommercial nature or the license plate number of the vehicle involved in the offense.

Added Ch. 683, Stats. 1967. Effective November 8, 1967.

### ***Records of Actual Mileage of Motor Vehicles***

1819. All records of the department containing information as to the actual mileage of motor vehicles submitted as required by subdivision (b) of Section 4456 and Sections 5900 and 5901 shall be open to inspection by the public during the office hours of the department.

Amended Ch. 852, Stats. 1993. Effective January 1, 1994.

Amended Ch. 180, Stats. 1994. Effective July 11, 1994.

### ***Intervention Program Data and Monitoring System***

1821. (a) The department shall establish and maintain a data and monitoring system to evaluate the efficacy of intervention programs for persons convicted of violations of Section 23152 or 23153.

(b) The system may include a recidivism tracking system. The recidivism tracking system may include, but not be limited to, jail sentencing, license restriction, license suspension, level I (first offender) and II (multiple offender) alcohol and drug education and treatment program assignment, alcohol and drug education treatment program readmission and dropout rates, adjudicating court, length of jail term, actual jail or alternative sentence served, type of treatment program assigned, actual program compliance status, subsequent accidents related to driving under the influence of alcohol or drugs, and subsequent convictions of violations of Section 23152 or 23153.

(c) The systems described in subdivisions (a) and (b) shall include an evaluation of the efficacy of the increased level of intervention resulting from the act that added this subdivision.

(d) The department shall submit an annual report of its evaluations to the Legislature. The evaluations shall include a ranking of the relative efficacy of criminal penalties, other sanctions, and intervention programs and the various combinations thereof, including, but not limited to, those described in subdivision (c).

Amended Sec. 2, Ch. 656, Stats. 1998. Effective January 1, 1999.

### ***Legislative Finding: Driving Under the Influence***

1822. The Legislature finds that driving under the influence of alcohol or drugs continues to be a primary safety issue on the state's highways, and the major cause of traffic deaths. It is imperative that violators who drive while under the influence of alcohol or drugs be fully prosecuted under the law. The Legislature also finds that too often violators have not had their driving records at the Department of Motor Vehicles appropriately updated. Therefore, it is the intent of the Legislature that the department, working with the courts, establish and maintain a data and monitoring system to track violations of driving under the influence of alcohol or drugs, including, but not limited to, violations of Article 1.3 (commencing with Section 23136), Article 1.5 (commencing with Section 23140), and Article 2 (commencing with Section 23152), of Chapter 12 of Division 11. The system shall match arrests for driving under the influence of alcohol or drug violations with convictions reported to the department.

Added Sec. 1, Ch. 224, Stats. 1996. Effective January 1, 1997.

### ***Audit of Applications for Disabled Person Placards***

1825. (a) The department may conduct an annual, random audit of applications submitted and processed pursuant to Section 22511.55 or subdivision (b) or (c) of Section 22511.59 to verify the authenticity of the

certificates and information submitted in support of those applications.

(b) The audit provisions of subdivision (a) only apply to those applications that were initially submitted to the department after January 1, 2001.

Added Sec. 1.5, Ch. 524, Stats. 2000. Effective January 1, 2001.

## CHAPTER 2. DEPARTMENT OF THE CALIFORNIA HIGHWAY PATROL

### Article 1. Administration

#### ***Department of the California Highway Patrol***

2100. There is in the Business, Transportation and Housing Agency the Department of the California Highway Patrol.

Amended Ch. 144, Stats. 1984. Effective January 1, 1985.

#### ***Reference to Department***

2101. As used in this chapter, “department” means the Department of the California Highway Patrol.

Amended Ch. 1996, Stats. 1959. Effective September 18, 1959.

#### ***Reference to California Highway Patrol***

2102. Wherever in any statute “California Highway Patrol” is used, it means the Department of the California Highway Patrol.

#### ***Successor to California Highway Patrol***

2103. The department is the successor to and is vested with the duties, powers, purposes, responsibilities, and jurisdiction of the former Division of Enforcement of the Department of Motor Vehicles, known as the California Highway Patrol, and of the officers and employees thereof.

#### ***Ownership of Property***

2104. The department has possession and control of all records, books, papers, offices, or equipment, and all other property, real or personal, now or hereafter held for the benefit or use of the former Division of Enforcement of the Department of Motor Vehicles, known as the California Highway Patrol.

#### ***State Department Provisions***

2105. Except as in this chapter otherwise provided, the provisions of Chapter 2 (commencing at Section 11150) of Part 1 of Division 3 of Title 2 of the Government Code shall govern and apply to the conduct of the department in every respect the same as if the provisions were set forth in this code, and wherever in that chapter the term “head of the department” or similar designation occurs, for the purposes of this division, it shall mean the commissioner.

Amended Ch. 1996, Stats. 1959. Effective September 18, 1959.

#### ***Office of Department***

2106. The department shall maintain its main office at Sacramento.

#### ***Commissioner of California Highway Patrol***

2107. The department is under the control of a civil executive officer, known as the Commissioner of the California Highway Patrol. The commissioner shall be appointed by the Governor with the advice and consent of the Senate to serve at the pleasure of the Governor, and shall have resided within the State continuously for at least five years immediately preceding his appointment.

Amended Ch. 268, Stats. 1984. Effective June 30, 1984.

#### ***Powers and Duties of Commissioner***

2108. The commissioner shall perform all duties, exercise all powers and

jurisdiction, assume and discharge all responsibilities, and carry out and effect all purposes vested by law in the department.

Notwithstanding any other provision of law, the commissioner may administratively determine the geographic area of residence of any member of the department in order to assure the availability of such member for emergency service and the discharge of departmental responsibilities.

Amended Ch. 1231, Stats. 1963. Effective September 20, 1963.

### ***Organization of Department***

2109. The commissioner shall organize the department with the approval of the Governor and the Secretary of the Business, Transportation and Housing Agency and may arrange and classify the work of the department and may, with the approval of the Governor and the Secretary of the Business, Transportation and Housing Agency, create or abolish divisions thereof.

Amended Ch. 144, Stats. 1984. Effective January 1, 1985.

### ***Assistant Commissioner***

2110. The Assistant Commissioner of the California Highway Patrol shall be appointed by the commissioner, subject to the approval of the Governor, pursuant to the provisions of ArticleXXIV of the State Constitution.

Amended Ch. 268, Stats. 1984. Effective July 30, 1984.

### ***Duties of Assistant Commissioner***

2111. The assistant commissioner shall carry out and execute such duties, with respect to traffic law enforcement, as may be specified by the commissioner.

### ***Administrative Officer***

2112. The chief administrative officer of the department shall be appointed by the commissioner subject to the approval of the Governor, pursuant to the provisions of ArticleXXIV of the State Constitution.

Amended Ch. 268, Stats. 1984. Effective June 30, 1984.

### ***Duties of Chief Administrative Officer***

2113. The chief administrative officer shall carry out and execute such duties with respect to the administrative affairs of the department as may be specified by the commissioner.

### ***Membership in Associations***

2114. The department may pay membership fees, join, and participate in the affairs of associations having for their purpose the interchange of information relating to law enforcement, accident prevention, and subjects related to the powers and duties of the department.

## **Article 2. The California Highway Patrol**

### ***The California Highway Patrol***

2250. The California Highway Patrol in the Department of the California Highway Patrol consists of the following members: the commissioner, the deputy commissioner, assistant commissioners, deputy chiefs, assistant chiefs, captains, lieutenants, sergeants, and officers.

Amended Ch. 615, Stats. 1977. Effective January 1, 1978.

### ***Special Peace Officer Designations***

2250.1. (a) The commissioner shall establish special designations of peace officers within the Department of the California Highway Patrol to assist in the transfer of responsibilities from the California State Police

Division to the Department of the California Highway Patrol. The peace officers so designated include all peace officers of the former California State Police Division on July 11, 1995. These specially designated peace officers are peace officers as defined in subdivision (a) of Section 830.2 of the Penal Code.

(b) Peace officers designated in subdivision (a) shall become members of the Department of the California Highway Patrol, as described in Section 2250, by meeting the training requirements and qualifications for those positions as established pursuant to Section 19818.6 of the Government Code or with the approval of the State Personnel Board Executive Officer.

(c) Individuals granted reemployment or reinstatement on or after July 12, 1995, to peace officer positions formerly within the California State Police Division shall be reinstated to the peace officer designations established by the commissioner pursuant to this section.

Added Sec. 65, Ch. 305, Stats. 1996. Effective January 1, 1997.

### ***Promotions***

2251. All promotions to the classes of deputy chief, assistant chief, captain, lieutenant, and sergeant shall be made from promotional eligible lists resulting from promotional examination of persons in the next lower class.

Amended Ch. 615, Stats. 1977. Effective January 1, 1978.

### ***Specialized Positions***

2252. Such specialized positions as shall be designated by the commissioner with the approval of the Personnel Board shall be filled pursuant to open competitive examinations held pursuant to law.

### ***Workers' Compensation***

2253. For the purpose of determining the scope of employment of any member of the California Highway Patrol under the workers' compensation laws, any such member shall be deemed to be on duty and acting within the scope of his employment when actually exercising any of the powers or performing any of the duties imposed or authorized by law at any time during the 24 hours of the day.

Amended Ch. 1454, Stats. 1974. Effective January 1, 1975.

### ***Injury and Disability Records***

2254. In the event any dispute arises between the department and any of its members in an industrial disability case, such member or his attorney, upon demand, shall be entitled to examine any record of the department or of the State Compensation Insurance Fund which has any bearing on said case.

### ***Service Outside County of Appointment***

2255. No member of the California Highway Patrol, appointed to serve in any county, shall be assigned by the commissioner for service outside the county for a longer period than one week, except:

(a) Pursuant to a request by the employee for a transfer.

(b) As may be necessitated by temporary traffic emergencies requiring an increase in the number of patrol members in one locality or seasonal changes making expedient a decrease in the number of patrol members in one locality, but in such latter events no assignment shall be made for disciplinary purposes.

An assignment under this section shall be made by the commissioner.

**State Traffic Officer Age Limits**

2256. Notwithstanding Section 18932 of the Government Code, the minimum age limit for appointment to the position of entry level peace officer of the Department of the California Highway Patrol, shall be 21 years, and the maximum age limit for examination shall be 35 years.

Amended Sec. 10, Ch. 945, Stats. 1997. Effective January 1, 1998.

Amended Sec. 1, Ch. 162, Stats. 2001. Effective January 1, 2002.

**Badges**

2257. The commissioner shall issue to each member of the California Highway Patrol a badge of authority with the seal of the State of California in the center thereof, the words "California Highway Patrol" encircling the seal and below the designation of the position held by each member to whom issued.

**Issuance of Badges**

2258. Neither the commissioner nor any other person shall issue a badge to any person who is not a duly appointed member of the California Highway Patrol.

**Uniforms and Equipment**

2259. The Department of the California Highway Patrol shall pay to the member, or his estate, the cost of repairing the uniforms and equipment of the member of the California Highway Patrol which are damaged in the line of duty. If the uniforms or equipment are damaged beyond repair, the department shall pay an amount equal to the actual value thereof at the time the damage occurred, which shall be determined by the commissioner.

The term "equipment," as used in this section, shall include equipment required by the department or personal accoutrements necessary for the patrol member to perform his duty.

Amended Ch. 1473, Stats. 1961. Effective September 15, 1961.

**Bulletproof Vests**

2259.5. The commissioner shall make certified bulletproof vests available to members of the California Highway Patrol while engaged in enforcement activities. The commissioner may, at his option, make such equipment available to the remainder of the personnel of the California Highway Patrol. Such equipment shall remain the property of the Department of the California Highway Patrol and shall be returned upon request of the commissioner. No provision of this section shall be construed to require that the commissioner provide one certified bulletproof vest for each member of the California Highway Patrol. It is the intent of this section that a sufficient number of such vests be available for the use of members of the California Highway Patrol while engaged in enforcement activities. Such vests may be passed from one shift to another in the interests of economy.

Added Ch. 951, Stats. 1976. Effective January 1, 1977.

**Uniforms**

2260. The commissioner may advance the cost of, or obtain and furnish, one complete uniform, including such items of clothing and equipment as may be required by the commissioner, to each new member of the California Highway Patrol hereafter employed. The cost to the commissioner shall be deducted from the salary of such member in installments within the first year after he has completed the training school.

**Wearing of Uniforms**

2261. A uniform substantially similar to the official uniform of members

of the California Highway Patrol shall not be worn by any other law enforcement officer or by any other person except duly appointed members of the California Highway Patrol and persons authorized by the commissioner to wear such uniform in connection with a program of entertainment. A uniform shall be deemed substantially similar to the uniform of the California Highway Patrol if it so resembles such official uniform as to cause an ordinary reasonable person to believe that the person wearing the uniform is a member of the California Highway Patrol.

Amended Ch. 1192, Stats. 1968. Operative January 1, 1969.

### ***Training School***

2262. The commissioner shall establish a school for the training and education of the members of the California Highway Patrol and for such other employees of the department deemed necessary, in traffic regulation, in the performance of the duties of such persons, and in the proper enforcement of this code and laws respecting use of the highways. He may contract with any county, city, district, or other subdivision of the State for the use of school facilities in the training of enforcement officers.

### ***Firearm Training***

2263. Shooting practice and instruction in the use of firearms shall constitute part of the training to be given to members of the California Highway Patrol. Firearm training may be given in connection with the school or otherwise and may include participation by patrol members in shooting competition.

### ***Marksmanship Badges***

2264. The commissioner may procure and issue appropriate badges to patrol members for excellence in marksmanship.

### ***Uniform Assessment Prohibited***

2265. The Department of the California Highway Patrol shall not assess against any member of the department the cost of replacing any Article of uniform clothing or accessories which employees are required to wear when the replacement is necessary as a result of a change in uniform regulations by the department after the effective date of this section.

Added Ch. 1704, Stats. 1959. Effective September 18, 1959.

### ***Legislative Intent: Considerations Determining Compensation for Communications Operator with California Highway Patrol***

2266. (a) The Legislature finds and declares all of the following:

(1) The communications operators of the Department of the California Highway Patrol are among the lowest paid when compared to operators employed by other law enforcement agencies in the state. The department's communication centers suffer from significant staff shortages and high turnover rates. Increasing the wages paid to these communications operators will increase their professionalism while reducing their rate of turnover.

(2) The recruitment and retention problem is especially evident in the classifications of Communications Operator I and II.

(3) In order for the state to recruit and retain the highest qualified and capable communications operators, those employees should be compensated in an amount equal to the estimated average total compensation for the classifications corresponding to Communications Operator I and II within the police departments in the Cities of Los Angeles, Oakland, San Diego, and San Jose and the City and County of San Francisco.

(4) According to the Department of the California Highway Patrol, it costs the department thirty-six thousand one hundred ninety-eight dollars



(\$36,198) to train a Communications Operator I and sixty-five thousand two hundred two dollars (\$65,202) to train a Communications Operator II to their respective classifications. After the department has trained an operator, all too often the new, fully trained operator will move to a local agency to a higher wage.

(5) This section is not in violation of the Ralph C. Dills Act (Chapter 10.3 (commencing with Section 3512) of Division 4 of Title 1 of the Government Code), which requires that changes for salaries and benefits be collectively bargained between representatives of the state and the employee's union. This section does not circumvent that process. This section simply authorizes the Department of Personnel Administration, when determining compensation for communications operators in the Department of the California Highway Patrol, to consider the total compensation for communications operators in other jurisdictions.

(b) When determining compensation for communications operators in the Department of the California Highway Patrol, the Department of Personnel Administration may consider the total compensation for communications operators in comparable positions in the police departments specified in paragraph (3) of subdivision (a).

Added Sec. 1, Ch. 786, Stats. 2001. Effective January 1, 2002.

### ***Citizenship Requirement***

2267. (a) No person shall be appointed as a member of the California Highway Patrol who is not a citizen of the United States.

(b) A member of the patrol appointed prior to the effective date of this act who is not a United States citizen shall become a United States citizen at the earliest possible time. Inability or failure to comply with this subdivision shall result in termination of employment.

Added Ch. 382, Stats. 1982. Effective January 1, 1983.

### ***Duties***

2268. (a) Any member of the Department of the California Highway Patrol, as specified in Sections 2250 and 2250.1, shall be capable of fulfilling the complete range of official duties administered by the commissioner pursuant to Section 2400 and other critical duties that may be necessary for the preservation of life and property. Members of the California Highway Patrol shall not be assigned to permanent limited duty positions which do not require the ability to perform these duties.

(b) Subdivision (a) does not apply to any member of the California Highway Patrol who, after sustaining serious job-related physical injuries, returned to duty with the California Highway Patrol and who received a written commitment from the appointing power allowing his or her continued employment as a member of the California Highway Patrol. This subdivision applies only to commitments made prior to January 1, 1984.

(c) Nothing in subdivision (a) entitles a member of the California Highway Patrol to, or precludes a member from receiving, an industrial disability retirement.

Amended Sec. 66, Ch. 305, Stats. 1996. Effective January 1, 1997.

### ***Safety and Aviation Boots***

2269. (a) The commissioner shall provide, as safety equipment, boots to each member of the California Highway Patrol who is assigned to ride motorcycles. This safety equipment shall remain the property of the state. Items lost or damaged because of the negligence of the officer shall be replaced by the officer at his or her expense.

(b) The commissioner shall pay the cost of aviation boots to each member

of the California Highway Patrol who is assigned to aircraft operations and shall make aviation boots directly available for purchase by those members.

Amended and Renumbered Ch. 56, Stats. 1987. Effective January 1, 1988. Previously Section 2267.

### Article 3. Powers and Duties

#### **Law Enforcement**

2400. (a) The commissioner shall administer Chapter 4 (commencing with Section 10850) of Division 4, Article 3 (commencing with Section 17300) of Chapter 1 of Division 9, Division 10 (commencing with Section 20000), Division 11 (commencing with Section 21000) except Chapter 11 (commencing with Section 22950), Division 12 (commencing with Section 24000), Division 13 (commencing with Section 29000), Division 14 (commencing with Section 31600), Division 14.1 (commencing with Section 32000), Division 14.5 (commencing with Section 33000), Division 14.7 (commencing with Section 34000), Division 14.8 (commencing with Section 34500), Division 15 (commencing with Section 35000), Division 16 (commencing with Section 36000) except Chapter 2 (commencing with Section 36100) and Chapter 3 (commencing with Section 36300), and Division 16.5 (commencing with Section 38000) except Chapter 2 (commencing with Section 38010).

(b) The commissioner shall enforce all laws regulating the operation of vehicles and the use of the highways except that, on ways or places to which Section 592 makes reference, the commissioner shall not be required to provide patrol or enforce any provisions of this code other than those provisions applicable to private property.

(c) The commissioner shall not be required to provide patrol for or enforce Division 16.5 (commencing with Section 38000).

(d) The commissioner shall have full responsibility and primary jurisdiction for the administration and enforcement of the laws, and for the investigation of traffic accidents, on all toll highways and state highways constructed as freeways, including transit-related facilities located on or along the rights-of-way of those toll highways or freeways, except facilities of the San Francisco Bay Area Rapid Transit District. However, city police officers while engaged primarily in general law enforcement duties may incidentally enforce state and local traffic laws and ordinances on toll highways and state freeways within incorporated areas of the state. In any city having either a population in excess of 2,000,000 or an area of more than 300 square miles, city police officers shall have full responsibility and primary jurisdiction for the administration and enforcement of those laws and ordinances, unless the city council of the city by resolution requests administration and enforcement of those laws by the commissioner.

(e) The commissioner shall have full responsibility and primary jurisdiction for the administration and enforcement of the laws, and for the investigation of traffic accidents, on all highways within a city and county with a population of less than 25,000, if, at the time the city and county government is established, the county contains no municipal corporations.

(f) The commissioner may enter into any interagency agreement with the State Board of Equalization for the purpose of enforcement of statutes requiring commercial vehicles from foreign jurisdictions to have a diesel fuel tax permit and to make payments to the board as required.

(g) The commissioner shall assume those duties and responsibilities of providing protection to state property and employees actually being performed by the California State Police Division on and before July 11, 1995.

(h) The commissioner may provide for the physical security of any current or former constitutional officer of the state and current or former legislator of the state.

(i) Upon request of the Chief Justice of the California Supreme Court, the commissioner may provide appropriate protective services to any current or former member of the State Court of Appeal or the California Supreme Court.

Amended Sec. 67, Ch. 305, Stats. 1996. Effective January 1, 1997.

***Law Enforcement: City of Malibu***

2400.6. The commissioner shall enforce all laws regulating the operation of vehicles on, and the use of any portion of, State Highway Route 1 in the City of Malibu, if requested by the city, and if a contract is entered into between the state and the city. The contract shall require that an amount be paid to the commissioner that is equal to the costs incurred by the department for services provided under the contract.

Added Ch. 394, Stats. 1992. Effective January 1, 1993.

***Law Enforcement: Expressways in Santa Clara County***

2400.7. (a) The commissioner may enforce all laws regulating the operation of vehicles and on, and the use of, any portion of any expressway in the County of Santa Clara, if requested by a city or the county with respect to the portion of the highway within that city or county and if a contract is entered into between the state and that city or the county or any combination thereof.

(b) The contract shall require affected cities or the County of Santa Clara, or both, as the case may be, to pay to the commissioner, for deposit in the Motor Vehicle Account in the State Transportation Fund, an amount that is equal to the costs incurred by the department for services provided under the contract.

Added Sec. 2, Ch. 467, Stats. 1997. Effective September 25, 1997.

***Patrol of Highways***

2401. The commissioner shall make adequate provision for patrol of the highways at all times of the day and night.

***Transportation of Hazardous and Medical Waste***

2401.1. The commissioner may enforce those provisions relating to the transportation of hazardous waste found in Article6 (commencing with Section 25160), Article6.5 (commencing with Section 25167.1), and Article8 (commencing with Section 25180), of Chapter 6.5 of Division 20 of the Health and Safety Code, pursuant to subdivision (d) of Section 25180 of the Health and Safety Code and the provisions relating to the transportation of medical waste found in Chapter 6 (commencing with Section 118000) of, and Chapter 10 (commencing with Section 118325) of, Part 14 of Division 104 of the Health and Safety Code.

Amended Sec. 423, Ch. 1023, Stats. 1996. Effective September 29, 1996.

***Rules and Regulations***

2402. The commissioner may make and enforce such rules and regulations as may be necessary to carry out the duties of the department. Rules and regulations shall be adopted, amended, or repealed in accordance with the Administrative Procedure Act, commencing with Section 11370 of the Government Code.

Amended Ch. 1500, Stats. 1965. Effective September 17, 1965.

***Regulations and Standards: Compressed or Liquefied Gas and Liquefied Petroleum Gas***

2402.6. (a) The commissioner may adopt and enforce regulations and standards with respect to fuel containers and fuel systems on vehicles using compressed or liquefied natural gas and liquefied petroleum gas used in conjunction with a propulsion system certified by the State Air Resources Board as producing as few or fewer emissions as a State Air Resources Board approved system using compressed or liquefied natural gas or liquefied petroleum gas and with respect to the operation of vehicles using any of those fuels to ensure the safety of the equipment and vehicles and of persons and property using the highways.

(b) ***The commissioner may also adopt and enforce regulations and standards with respect to fuel containers and fuel systems on vehicles using compressed or liquefied hydrogen gas or liquid fuels that generate hydrogen gas.***

(c) All motor vehicles with compressed natural gas fuel systems used for propulsion shall comply either with the regulations adopted pursuant to subdivision (a) or with National Fire Protection Administration Standard NFPA 52, "Compressed Natural Gas (CNG) Vehicular Fuel Systems" in effect at the time of manufacture, until standards for those fuel systems have been incorporated into the Federal Motor Vehicle Safety Standards by the United States Department of Transportation. Whenever those Federal Motor Vehicle Safety Standards include requirements for gaseous fuel systems, all motor vehicles with gaseous fuel systems which are manufactured after the effective date of those requirements shall comply with those requirements.() <sup>1</sup>

(d) It is an infraction for any person to operate any motor vehicle in violation of any provision of a regulation adopted pursuant to this section.() <sup>2</sup>

(e) The operator of every facility for filling portable liquefied natural gas or liquefied petroleum gas containers having a capacity of four pounds or more but not more than 200 pounds of gas shall post in a conspicuous place the regulations applicable to that filling procedure.

Amended Ch. 1243, Stats. 1992. Effective September 30, 1992.

Amended Sec. 2, Ch. 610, Stats. 2002. Effective January 1, 2003.

The 2002 amendment added the italicized material, and at the point(s) indicated, deleted the following:

1. "(c)"
2. "(d)"

***Hazardous Materials Defined***

2402.7. The commissioner shall adopt the definitions designated by the United States Department of Transportation under Title 49 (commencing with Section 1801) of the United States Code and Title 49 (commencing with Section 107) of the Code of Federal Regulations relating to hazardous materials, substances, or wastes, including, but not limited to, definitions relating to any radioactive material, poison, flammable gas, nonflammable gas, flammable liquid, oxidizer, flammable solid, corrosive material (liquid or solid), irritating materials, combustible liquids, explosives, blasting agents, etiologic agents, organic peroxides, hazardous wastes, and other regulated materials of classes A, B, C, D and E.

Amended Ch. 860, Stats. 1981. Effective January 1, 1982.

***Patrol Districts and Branch Offices***

2403. The commissioner may create highway patrol districts for the efficient administration and enforcement of this code and the laws respecting

the use of highways. He may establish branch offices wherever he may deem necessary.

### ***Reciprocal Operational Agreement***

2403.5. The commissioner, or a designated representative, may enter into reciprocal operational agreements with authorized representatives of the Oregon State Police, the Nevada Department of Motor Vehicles and Public Safety, and the Arizona Department of Public Safety to promote expeditious and effective law enforcement service to the public, and assistance between the members of the California Highway Patrol and those agencies, in areas adjacent to the borders of this state and each of the adjoining states pursuant to Section 830.32 of the Penal Code. The reciprocal operational agreement shall be in writing and may cover the reciprocal exchange of law enforcement services, resources, facilities and any other necessary and proper matters between the Department of the California Highway Patrol and the respective agency. Any agreement shall specify the involved departments, divisions, or units of the agencies, the duration and purpose of the agreement, the responsibility for damages, the method of financing any joint or cooperative undertaking, and the methods to be employed to terminate an agreement. The commissioner may establish operational procedures in implementation of any reciprocal operational agreement that are necessary to achieve the purposes of the agreement.

Added Ch. 594, Stats. 1989. Effective January 1, 1990.

### ***Headquarters or Substations***

2404. The commissioner shall establish, in counties having charters, except in counties of the first or second class, headquarters or substations for the efficient performance of the duties of the department, and he may establish, in such other localities as he deems most suitable, such headquarters or substations.

### ***Mexico Border Crossing Inspection Vehicle***

2404.5. The department shall obtain a vehicle suitable for registration and commercial safety inspections at border crossings into Mexico.

Added Ch. 1001, Stats. 1983. Effective January 1, 1984.

### ***Real Property***

2405. The commissioner may purchase or lease such real estate and erect such buildings as the department or any of its divisions require, subject to the approval of the Department of General Services.

Amended Ch. 371, Stats. 1965. Effective September 17, 1965.

### ***Authorized Patrol Equipment***

2406. The commissioner may provide that any highway patrol vehicle shall be equipped with a stretcher and emergency first aid equipment for use in transporting injured persons.

### ***Accident Report Forms***

2407. The department shall prepare and on request supply to police departments, coroners, sheriffs, and other suitable agencies or individuals, forms for accident reports required under this code, which reports shall call for sufficiently detailed information to disclose with reference to a traffic accident the cause, conditions then existing, and the persons and vehicles involved.

### ***Accident Information***

2408. The department shall tabulate and may analyze all accident

reports and publish annually or at more frequent intervals statistical information based thereon as to the number and location of traffic accidents, as well as other information relating to traffic accident prevention. Based upon its findings after such analysis, the department may conduct further necessary detailed research to more fully determine the cause and control of highway accidents. It may further conduct experimental field tests within areas of the State to prove the practicability of various ideas advanced in traffic control and accident prevention.

***Traffic Collision Data: Towing Boat Trailers***

2408.5. (a) The department shall compile traffic collision data on vehicles that meet the criteria set forth in subparagraph (H) of paragraph (3) of subdivision (b) of Section 12804.9 and report its findings to the Legislature on or before April 1, 2003.

(b) This section shall remain in effect only until January 1, 2004, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2004, deletes or extends that date.

Added and repealed Sec. 5.5, Ch. 1035, Stats. 2000. Effective January 1, 2001. Repeal operative January 1, 2004.

**NOTE: The preceding section shall remain in effect only until January 1, 2004, and as of that date is repealed.**

***Peace Officer Authority***

2409. All members of the California Highway Patrol have the powers of a peace officer as provided in Section 830.2 of the Penal Code.

Amended Ch. 938, Stats. 1971. Operative May 3, 1972.

***Traffic Direction***

2410. Members of the California Highway Patrol are authorized to direct traffic according to law, and, in the event of a fire or other emergency, or to expedite traffic or insure safety, may direct traffic as conditions may require notwithstanding the provisions of this code.

***Traffic Control: Special Events***

2410.5. (a) The department may contract with a person or governmental entity that is conducting a special event which will impose extraordinary traffic control requirements at and near the site of the special event to provide supplemental patrol services to coordinate and direct traffic at and near the special event site. A contract entered into pursuant to this section shall include provisions for reimbursement to the department, and may include a requirement for the posting of a bond, for the cost of providing the supplemental patrol services, as determined by the commissioner.

(b) The patrol services, if any, provided under this section shall be rendered by officers of the department.

(c) Contract patrol services authorized under this section shall not reduce the normal and regular services of the department.

(d) Any contract fees received by the department pursuant to a contract under this section shall be deposited in the Motor Vehicle Account in the State Transportation Fund.

Added Ch. 54, Stats. 1983. Effective May 27, 1983.

***Service of Warrants***

2411. Members of the California Highway Patrol are authorized to serve all warrants relating to the enforcement of this code.

***Accident Investigation***

2412. All members of the California Highway Patrol may investigate

accidents resulting in personal injuries or death and gather evidence for the purpose of prosecuting the person or persons guilty of any violation of the law contributing to the happening of such accident.

### ***Statewide Vehicle Theft Investigation and Apprehension Coordinator***

2413. The Commissioner of the California Highway Patrol is designated as the Statewide Vehicle Theft Investigation and Apprehension Coordinator. The commissioner may establish vehicle theft prevention, investigation, and apprehension programs. The commissioner may assist local, state, and federal law enforcement agencies by coordinating multijurisdictional vehicle theft investigations and may establish programs to improve the ability of law enforcement to combat vehicle theft.

Added Ch. 1248, Stats. 1994. Effective January 1, 1995.

### ***Unclaimed Property***

2414. When lost, stolen, abandoned or otherwise unclaimed property, except vehicles subject to registration under this code, comes into possession of the department, the department may hold or store the same with some responsible person until it is claimed and all just and reasonable charges for saving and storage thereof have been paid.

### ***Sale of Unclaimed Property***

2415. (a) If the owner or other person entitled to the possession thereof fails to claim the property within six months and pay the charges, the department may sell it to the highest bidder at public auction at the place where the same may be held or stored, having first caused notice of sale to be given at least five days before the time fixed therefor, by publication once in a newspaper of general circulation published in the county where the sale is to be held.

(b) Any excess in the proceeds of the sale after paying such charges and expenses of sale including but not limited to the costs of advertising and a fee of not exceeding ten dollars (\$10) to be charged by the department for making the sale shall be deposited in the State Treasury in the special deposit fund as money remaining unclaimed in the hands of the department.

(c) On payment of the price bid for the property sold, the delivery of the property with the commissioner's bill of sale vests title in the purchaser.

(d) In any case where there is no bid offered for the property, or if the highest bid offered does not exceed the charges for saving, holding, and storage and the expenses of sale, the same shall become the property of the department as compensation for expenses incurred.

### ***Authorized Emergency Vehicle Permit***

2416. (a) The Commissioner of the California Highway Patrol may issue authorized emergency vehicle permits only for the following vehicles, and then only upon a finding in each case that the vehicle is used in responding to emergency calls for fire or law enforcement or for the immediate preservation of life or property or for the apprehension of law violators:

(1) Any vehicle maintained in whole or in part by the state, a county or a city and privately owned and operated by a marshal, deputy marshal, or person who is a member of, and who receives salary from, and is regularly employed by, a police department or sheriff's department, provided the state, county or city does not furnish to that person a publicly owned authorized emergency vehicle.

(2) Any vehicle owned and operated by a public utility, used primarily to accomplish emergency repairs to utility facilities or used primarily by railroad police officers, who are commissioned by the Governor, in the

performance of their duties.

(3) Firefighting or rescue equipment designed and operated exclusively as such.

(4) Any vehicle operated by the chief, assistant chief, or one other uniformed person designated by the chief of a fire department organized as provided in the Health and Safety Code or the Government Code or pursuant to special act of the Legislature.

(5) Any vehicle of an air pollution control district used to enforce provisions of law relating to air pollution from motor vehicles.

(6) Any vehicle operated by the chief of any fire department established on any base of the armed forces of the United States.

(7) Any vehicle owned and operated by any fire company organized pursuant to Part 4 (commencing with Section 14825) of the Health and Safety Code.

(8) Privately owned ambulances licensed pursuant to Chapter 2.5 (commencing with Section 2500).

(9) Vehicles other than privately owned ambulances used by privately owned ambulance operators exclusively to transport medical supplies, lifesaving equipment, or personnel to the scene of an emergency when a request for medical supplies, lifesaving equipment, or personnel has been made by any person or public agency responsible for providing emergency medical transportation. These vehicles shall display a sign or lettering not less than two and one-half inches in height, in a color providing a sharp contrast to its background, on each side showing the name of the ambulance operator.

(10) Any vehicle owned and operated by an office or department of a city, county, or district which is designated by an ordinance adopted by the governing body of that local agency as a hazardous materials response team vehicle for response to hazardous materials emergencies.

(b) The commissioner may adopt and enforce regulations to implement this section.

(c) Violation of any regulation adopted by the commissioner pursuant to this section is a misdemeanor.

Amended Sec. 177, Ch. 872, Stats. 1996. Effective January 1, 1997.

### ***Suspension or Revocation of Permit***

2417. (a) The commissioner may suspend or revoke any permit issued for an authorized emergency vehicle under the following conditions:

(1) The vehicle is operated in violation of any of the provisions of this code.

(2) The vehicle is operated in violation of the rules and regulations relating to authorized emergency vehicles as promulgated by the commissioner.

(3) The vehicle is not equipped as required by this code.

(b) The permittee of any authorized emergency vehicle whose permit has been suspended or revoked shall be entitled, upon request, to a hearing in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) When any authorized emergency vehicle permit has been suspended or revoked under provisions of this section, any additional authorized emergency vehicle permit issued in the name of the permittee may be likewise suspended or revoked.

Amended Ch. 272, Stats. 1978. Effective June 23, 1978.

### ***Foreign Commercial Vehicles***

2418. The department shall adopt reasonable rules and regulations to ensure that all foreign commercial vehicles entering into, and operating



within, this state meet those standards already in effect for other commercial vehicles and shall address, but not be limited to, the following concerns:

- (a) Vehicle maintenance.
- (b) Maximum hours of service for drivers.
- (c) Insurance.
- (d) Enforcement of criminal, civil, and administrative actions, including, but not limited to, impoundment of vehicles for second or subsequent violations of rules and regulations adopted under this section.

Added Sec. 3, Ch. 727, Stats. 1998. Effective January 1, 1999.

### ***Foreign Commercial Vehicles: Inspections***

2418.1. For purposes of enforcing the provisions of Section 2418, the department and the State Air Resources Board shall, to the maximum extent possible, conduct vehicle safety and emissions inspections at the California-Mexican border crossings. Inspections shall be conducted at the Otay Mesa and Calexico commercial vehicle inspection facilities operated by the department and at other random roadside locations as determined by the department, in consultation with the board. Inspections for safety and emissions shall be consistent with the inspection procedures specified in Title 13 (commencing with Section 2175) of the California Code of Regulations as they pertain to vehicle inspections.

Added Sec. 4, Ch. 727, Stats. 1998. Effective January 1, 1999.

### ***Resuscitator Requirements for Ambulances***

2418.5. Notwithstanding any other provision of law, every emergency ambulance which is operated within this state by any public or private agency, including but not limited to any emergency ambulance which is operated by the State of California, any charter or general law city or county, or any district, shall be equipped at all times with a resuscitator.

For purposes of this section "emergency ambulance" means a vehicle which is designed or intended to be used in providing emergency transportation of wounded, injured, sick, invalid, or incapacitated human beings.

For the purposes of this section, a "resuscitator" means a device which adequately, effectively and safely restores breathing, which includes, but is not limited to, a portable hand-operated, self-refilling bag-valve mask unit for inflation of the lungs with either air or oxygen. The resuscitator shall not have any straps which could be used to attach the resuscitator to the human head.

Renumbered and amended Ch. 680, Stats. 1969. Effective November 10, 1969.

### ***Replacement of Flares***

2419. (a) Any member of the California Highway Patrol may give flares to any person as replacement for flares used by such person to warn traffic of an accident or other hazardous condition on a highway, provided such person was not required by law to give such warning, or was not involved in the accident or the creation of the hazardous condition. The officer shall not replace such flares unless he is reasonably satisfied that such person in fact placed the flares for which replacement is requested.

(b) Notwithstanding any other provision of law, the person requesting replacement of flares shall not be required to file any claim for such flares.

Amended Ch. 167, Stats. 1969. Effective November 10, 1969.

### ***Motorcycle: Gross Brake Horsepower***

2420. Upon request of the California Highway Patrol, manufacturers of motorcycles shall furnish a certification of gross brake horsepower to the department. If any manufacturer of motorcycles fails to comply with such

request within 30 days from the date such request has been deposited in the mail, then and in that event no dealer shall sell or offer for sale the particular make and model of motorcycle for which the certification was requested.

Added Ch. 422, Stats. 1963. Effective September 20, 1963.

### ***Contracts to Conduct Inspections***

2420.5. (a) The department may enter into a contract to conduct an inspection of vehicles that are subject to Section 500.100 of Title 29 of the Code of Federal Regulations and issue the vehicle inspection sticker authorized under subdivision (b) of that section to qualified vehicles.

(b) Any contract entered into under subdivision (a) shall provide that the amount to be paid to the department shall be equal to the costs incurred by the department for services provided under the contract.

Added Sec. 36, Ch. 877, Stats. 1998. Effective January 1, 1999.

### ***Department of the California Highway Patrol: Out-of-State Funerals***

2421. Notwithstanding Section 11032 of the Government Code, the commissioner may approve the out-of-state travel within the United States of members of the California Highway Patrol, in numbers the commissioner deems appropriate, to attend out-of-state funerals of law enforcement officers or to attend out-of-state events related to the funerals of law enforcement officers, including the National Peace Officers Memorial. Reimbursement for actual and necessary traveling expenses shall be allowed for members of the California Highway Patrol approved to travel out of state pursuant to this section up to a maximum aggregate amount of forty thousand dollars (\$40,000) in any fiscal year.

Added Sec. 1, Ch. 220, Stats. 1998. Effective January 1, 1999.

### ***Service Authority for Freeway Emergencies***

2421.5. (a) When any Service Authority for Freeway Emergencies has imposed additional fees on vehicles pursuant to Section 2555 of the Streets and Highways Code, the authority may contract with the department or a private entity to handle calls in accordance with the contract specified in subdivision (b) for the system on the portions of the California Freeway and Expressway System, and, in counties with a population of over 6,000,000 persons, the unincorporated county roads of that county, and on state highway routes that connect segments of the system, which are located within the county and over which the Department of the California Highway Patrol has law enforcement responsibility. The authority, with the concurrence of the department, shall approve or deny any contract permitted by this section, and establish appropriate performance standards for contracts, as required under subdivision (b), which shall be adhered to by the contractor. The service authority shall reimburse the department for all costs incurred under this section.

(b) The contract shall contain guidelines, as determined by the department, following consultation with the authority, for services to be provided, including, but not limited to, reporting requirements, immediate transfer of emergency calls and traffic management information to the department, computer interface capability with the department, performance standards, and coordination with the eligible tow service providers. Contract services shall be at no cost to the state, nor shall the department or state incur any liability for the actions of the contractors.

Amended Sec. 56, Ch. 1154, Stats. 1996. Effective September 30, 1996.

Amended Sec. 2, Ch. 89, Stats. 1997. Effective January 1, 1998.

### ***Emergency Medical Dispatcher Training***

2422. The department shall determine and implement the basic level of

emergency medical dispatcher training for dispatchers employed by the department based on guidelines developed by the California Emergency Medical Services Authority with the concurrence of the department. Implementation shall commence not later than January 1, 1987. Notwithstanding the foregoing, the commissioner may adopt a higher level of training for department dispatchers where appropriate.

The department shall report to the Legislature on progress in the implementation of an emergency medical dispatch training program not later than January 1, 1988.

Added Ch. 1303, Stats. 1985. Effective January 1, 1986.

### ***Youth Bus: Drivers: Additional Instruction and Training***

2423. In approving the additional instruction and training required under subdivision (b) of Section 680, the department shall consider the requirements of Article 4 (commencing with Section 40080) of Chapter 6 of Part 23 of Division 3 of Title 2 of the Education Code, as those provisions relate to instruction and training requirements for schoolbus drivers and school pupil activity bus drivers.

Added Sec. 2, Ch. 774, Stats. 1996. Effective January 1, 1997.

### ***Towing, Emergency Road Service, or Storage Agreements***

2424. (a) The Commissioner of the California Highway Patrol may enter into agreements with providers of towing, emergency road, and storage services for the purpose of determining which providers shall be summoned by the department when those services are necessary for public assistance or to carry out the duties and responsibilities of the department. Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to the agreements. The department shall confer with the towing industry, as necessary, to reach agreements mutually beneficial to the public, the towing industry, and the department.

(b) This section does not prohibit a member of the public from selecting any vehicle towing, emergency road service, or storage provider, except when towing or storage is ordered by a member of the department under the provisions of law.

(c) These agreements shall be implemented in cooperation with representatives of the towing industry, and shall include, but not be limited to, the following subjects: liability insurance requirements, towing, emergency road service, and storage fees, inspection of business and storage facilities and equipment, recordkeeping, minimum equipment requirements, and the establishment of tow districts.

(d) Failure of a towing, emergency road service, or storage provider to comply with the provisions of the agreement may result in the suspension or termination of the agreement. In the event of suspension or termination of the agreement, and at the request of the towing, emergency road service, or storage provider, the department shall provide a hearing and appeal process to the provider.

(e) Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to the hearing and appeal process specified in subdivision (d).

Amended Ch. 488, Stats. 1991. Effective January 1, 1992.

### ***Designated Driver Program: Information Sheet***

2426. The department shall prepare a one-page information sheet describing its Designated Driver Program. The sheet shall include information concerning the person or entity an alcoholic beverage licensee may contact for assistance in establishing a Designated Driver Program.

Added Ch. 1337, Stats. 1990. Effective January 1, 1991.

***Fingerprint Service: Fee***

2427. Whenever the department submits the fingerprints of an applicant for a license or certificate to the Department of Justice, and is required to pay a fee pursuant to subdivision (e) of Section 11105 of the Penal Code, the department, without the necessity of adopting regulations, shall charge the applicant a fee sufficient to reimburse the department for that fee.

Added Ch. 1360, Stats. 1990. Effective January 1, 1991.

***Protective Services: Cost***

2428. (a) The Department of the California Highway Patrol may fix the cost or pro rata share, or, in its discretion, an amount it considers equivalent to the cost or pro rata share, and collect from each state agency in advance or upon any other basis that it may determine the cost of providing protective services for state employees and property.

(b) Payments for services provided shall be made by direct transfer as described in Section 11255 of the Government Code. All money received by the department pursuant to this section shall be deposited in the Protective Services Fund, which is hereby created. When appropriated by the Legislature, funds in the Protective Services Fund shall be used by the department to fulfill those responsibilities set forth in subdivisions (g), (h), and (i) of Section 2400.

(c) If a state agency refuses to pay the charges fixed by the Department of the California Highway Patrol for security services rendered, the department may file a claim for those charges against any appropriations made for the support or maintenance of all or any part of the work and affairs of the state agency. The Controller shall draw his or her warrant in accordance with law upon the claim in favor of the Department of the California Highway Patrol.

Added Sec. 68, Ch. 305, Stats. 1996. Effective January 1, 1997.

***Farm Labor Vehicles: Safety Belts: Public Reporting***

2429. The department shall develop an “800” telephone number system to facilitate public reporting of violations of Article 2 (commencing with Section 31400) of Chapter 5 of Division 13. The department shall include in the department’s “El Protector Program” public outreach activities that publicize the “800” telephone number system.

Added Sec. 1, Ch. 557, Stats. 1999. Effective September 29, 1999.

***Committee: House Car Operation Education***

2429.3. (a) The commissioner shall appoint a committee of 12 members to develop a public awareness and outreach campaign to educate manufacturers, sellers, and owners of house cars, as described in subdivision (b) of Section 12804.10, regarding locations where those vehicles may be legally operated within the state. The committee shall consist of the commissioner, two members representing owners or operators of house cars, and one representative from each of the following:

- (1) The Department of Transportation.
- (2) The Department of Motor Vehicles.
- (3) The Recreational Vehicle Industry Association.
- (4) The California Recreational Vehicle Dealers Association.
- (5) The National Recreational Vehicle Dealers Association.
- (6) The Family Motor Coach Association.
- (7) The Good Sam Club.
- (8) The recreational vehicle manufacturing industry.
- (9) The California Travel Parks Association.
- (b) The committee shall develop a driver education safety video for

operators of house cars. The video, as well as a map of the approved highways on which those vehicles may operate, shall be made available to dealers of house cars. The committee shall encourage dealers to make copies of the video and map available to purchasers of those vehicles. The video shall be produced at no cost to the state.

(c) Committee members shall serve at the pleasure of the commissioner and without compensation.

Added Sec. 1, Ch. 658, Stats. 2001. Effective October 9, 2001.

### ***Farm Labor Vehicle Education***

2429.5. The department, in cooperation with county and local farm bureaus, shall provide a program to educate growers and farmers and farm labor vehicle owners and drivers regarding farm labor vehicle certification requirements, including, but not limited to, certification requirements for farm labor vehicle drivers.

Added Sec. 2, Ch. 556, Stats. 1999. Effective September 29, 1999.

### **Article 3.3. Tow Truck Drivers**

(Added Ch. 488, Stats. 1991. Effective January 1, 1992)

### ***Tow Truck Drivers: Pilot Project***

2430. (a) The Legislature hereby creates a pilot project to develop recommendations for requiring emergency road service organizations and their specified employees, within the state, to be certified and receive specified training in the interest of public safety. The project shall be limited to freeway service patrol operations for major urban areas. The project includes, but is not limited to, the issuance of tow truck driver certificates to employees and employers involved in freeway service patrol operations, criminal history checks for convictions of specified crimes, and training for enhancement of public safety. The purpose of the project shall be to develop recommendations for requiring all emergency road service organizations and specified employees, within the state, to be certified and receive specified training in the interest of public safety.

(b) This project shall be for a period of two years commencing on July 1, 1992. The department shall submit a report to the Legislature not later than September 1, 1994. The report shall include, but not be limited to, all of the following:

- (1) The number of criminal history checks processed by the department.
- (2) The number of specified tow truck driver certificates issued.
- (3) The number of persons rejected for freeway service patrol operations as a result of the criminal history checks.

- (4) The names of participating emergency road service organizations.

- (5) An accounting of the number of certified persons who were subsequently disqualified for convictions of specified crimes, including the number of certified persons subsequently disqualified for convictions of specified crimes against those receiving service.

- (6) The training received by specified personnel.

- (7) Recommendations developed by the Emergency Roadside Assistance Advisory Committee regarding training, as specified in Section 2438, and guidelines for motorist safety, as specified in Section 2439.

- (8) Information compiled from reports submitted by highway service organizations pursuant to subdivision (a) of Section 2440.

- (9) Recommendations for extending the requirements of this Article and Article 3.5 (commencing with Section 2435) to all highway service organizations and their specified employees within the state.

(c) The Legislature declares that it is important to the public safety that

tow truck drivers, who perform freeway service patrol operations under agreement with any specified public transportation planning entity, do not have criminal records which include violent crimes against persons.

Added Ch. 488, Stats. 1991. Effective January 1, 1992.

### **Definitions**

2430.1. As used in this article, each of the following terms has the following meaning:

(a) "Tow truck driver" means a person who operates a tow truck, who renders towing service or emergency road service to motorists while involved in freeway service patrol operations, pursuant to an agreement with a regional or local entity, and who has or will have direct and personal contact with the individuals being transported or assisted. As used in this subdivision, "towing service" and "emergency road service" have the same meaning as defined in Section 2436.

(b) "Employer" means any person or organization which employs those persons defined in subdivision (a), or who is an owner-operator who performs the activity specified in subdivision (a), and who is involved in freeway service patrol operations pursuant to an agreement or contract with a regional or local entity.

(c) "Regional or local entity" means any public organization established as a public transportation planning entity pursuant to Title 7.1 (commencing with Section 66500) of the Government Code or authorized to impose a transaction and use tax for transportation purposes by the Public Utilities Code.

(d) "Emergency road service" has the same meaning as defined in Section 2436.

(e) "Freeway service patrol" has the same meaning as defined in Section 2561 of the Streets and Highway Code.

Amended Ch. 1109, Stats. 1992. Effective September 29, 1992.

### **Regional or Local Identity**

2430.2. (a) "Regional or local entity," as defined by subdivision (c) of Section 2430.1, also includes the transportation planning entity established pursuant to Section 130050.1 of the Public Utilities Code.

(b) This section shall become operative only if Article 3.3 (commencing with Section 2430) is added to this chapter during the first year of the 1991-92 Regular Session.

Added Ch. 1223, Stats. 1991. Effective January 1, 1992.

### **Arrest or Conviction Notification**

2430.3. (a) Every freeway service patrol tow truck driver and any California Highway Patrol rotation tow truck operator shall notify each of his or her employers and prospective employers and the Department of the California Highway Patrol of an arrest or conviction of any crime specified in paragraph (1), (2), (3), or (4) of subdivision (a) of Section 13377 prior to beginning the next workshift for that employer.

(b) For the purpose of conducting criminal history and driver history checks of any California Highway Patrol rotation tow truck operator, the commissioner may utilize the California Law Enforcement Telecommunications System (CLETS).

Amended Sec. 5, Ch. 127, Stats. 2001. Effective July 30, 2001.

### **Tow Truck Driver Certificate**

2430.5. (a) Every employer intending to hire a tow truck driver on or after July 1, 1992, shall require the applicant for employment to submit a temporary tow truck driver certificate issued by the department or a

permanent tow truck driver certificate issued by the Department of Motor Vehicles. The employer shall review the certificate and obtain a copy to be maintained as required by subdivision (c). The employer shall not hire any tow truck driver in any freeway service patrol operations who does not provide a temporary tow truck driver certificate issued by the department or a permanent tow truck driver certificate issued by the Department of Motor Vehicles. The employer shall not allow a tow truck driver who is not certified to participate in any freeway service patrol operations. If the issuance date on the certificate is more than 90 days from the proposed date of hire, the employer shall contact the department to reverify eligibility.

(b) On or after July 1, 1992, every employer, whose currently employed tow truck drivers are required to obtain a tow truck driver certificate pursuant to Section 12520, shall require the employees to submit to the employer a temporary tow truck driver certificate issued by the department or a permanent tow truck driver certificate issued by the Department of Motor Vehicles. The employer shall review the certificate and obtain a copy to be maintained as required by subdivision (c).

(c) Every employer shall maintain a tow truck driver certificate file for all tow truck drivers hired on or after July 1, 1992, or all currently employed tow truck drivers who are required to obtain a tow truck driver certificate pursuant to Section 12520. The employer shall retain employee rosters and copies of tow truck driver certificates for all tow truck drivers. The roster shall be comprised of the following two lists:

(1) Drivers who have valid tow truck driver certificates.

(2) Drivers who would be prohibited, pursuant to subdivision (a) of Section 13377, from involvement in any freeway service patrol operation.

Every employer shall make available for inspection by the department at the employer's primary place of business in this state. In addition, the employer shall maintain a personnel roster, also available for inspection, of all current tow truck drivers and their date of hire by the employer.

(d) Upon notification that a tow truck driver has been arrested for, or convicted of, any crime specified in paragraph (1), (2), (3), or (4) of subdivision (a) of Section 13377, the employer shall remove that tow truck driver from any position involving freeway service patrol operations.

(e) A violation of this section by an employer is a misdemeanor.

Amended Ch. 1241, Stats. 1992. Effective January 1, 1993.

### ***Tow Truck Drivers: Criminal and Driver History: Temporary Certificate: Fee***

2431. (a) For the purposes of conducting criminal history and driver history screening of tow truck drivers and employers, the commissioner shall do all of the following:

(1) Utilize the California Law Enforcement Telecommunications System (CLETS) to conduct preliminary criminal history checks.

(2) Obtain fingerprints from tow truck drivers and employers.

The fingerprint cards will be submitted to the Department of Justice for criminal history checks.

(3) Obtain a second set of fingerprints from applicants who have not continuously resided in the state for the previous seven years, and submit that card to the Federal Bureau of Investigation for out-of-state criminal history checks. The department may charge a fee sufficient to cover the additional expense of processing the fingerprint cards through the Federal Bureau of Investigation.

(4) Verify that the tow truck driver or employer, or both, have a valid California driver's license, through the use of the automated records system.

(b) On and after July 1, 1992, all tow truck drivers shall submit an application for the issuance of a tow truck driver certificate with the department and pay an application fee equal to the actual costs of a criminal history check and issuance of the tow truck driver's certificate, but not more than fifty dollars (\$50). Applicants for the renewal of an expired tow truck driver certificate or applicants for a duplicate tow truck driver certificate shall submit an application for issuance of a new tow truck driver certificate to the Department of Motor Vehicles and pay an application fee of twelve dollars (\$12).

All fees collected pursuant to this section shall be deposited in the Motor Vehicle Account in the State Transportation Fund. An amount equal to the fees paid shall be made available, upon appropriation, to the Department of Motor Vehicles for its administrative costs, for the cost of criminal history checks to be conducted by the Department of Justice, and to the department for its administrative costs. In no case shall the fees collected exceed the costs of administering this section.

(c) Applicants for an original tow truck driver certificate shall be fingerprinted by the department, on a form issued by the department, for submission to the Department of Justice for the purpose of determining whether the applicant has been convicted for a violation of any crime specified in paragraph (1), (2), (3), or (4) of subdivision (a) of Section 13377.

(d) Information released to the department or the Department of Motor Vehicles shall be related to their inquiry and shall remain confidential.

(e) The department shall issue a temporary tow truck driver certificate, provided by the Department of Motor Vehicles, to applicants who have cleared the specified criminal history check through CLETS and the driver history check through the automated records system, and who meet all other applicable provisions of this code. The term of the temporary tow truck driver's certificate shall be for a period of 90 days from the date of issuance.

Amended Ch. 1109, Stats. 1992. Effective September 29, 1992.

### ***Unlawful Activities: False Information: Failure to Comply***

2432. (a) It is unlawful for a freeway service patrol tow truck driver to knowingly provide false information on the application prepared and submitted to the department pursuant to subdivision (b) of Section 2431.

(b) It is unlawful for a California Highway Patrol rotation tow truck operator, including, but not limited to, a freeway service patrol tow truck driver, to fail to comply with the notification requirements in Section 2430.3.

(c) A violation of this section is punishable as a misdemeanor.

Amended Sec. 6, Ch. 127, Stats. 2001. Effective July 30, 2001.

### ***Failure to Comply***

2432.1. (a) If the commissioner determines that an employer has failed to comply with the requirements of this Article or Article 3.5 (commencing with Section 2435), the commissioner may, after a hearing, suspend the highway safety carrier's identification number issued pursuant to Section 2436.3 for a period not to exceed two years.

(b) If the commissioner determines that an employer has failed to comply with the requirements of this Article or Article 3.5 (commencing with Section 2435) twice within a period of 24 consecutive months, the commissioner may, after a hearing, prohibit the employer from participating any freeway service patrol operation for two years.

(c) Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to the hearing specified in subdivision (a) or (b).

Added Ch. 488, Stats. 1991. Effective January 1, 1992.



**Local Jurisdiction: Preemption**

2432.3. (a) This Article does not preempt the authority of any city, city and county, or county to regulate, pursuant to subdivision (g) of Section 21100, any of the matters covered by this article.

(b) (1) For the purposes of verifying the criminal history of individuals involved in the operation of tow truck services, law enforcement agencies of any city, city and county, or county may conduct criminal history checks for all of the following:

- (A) Applicants for employment to drive tow trucks.
- (B) Those who drive tow trucks.
- (C) Tow truck owners-operators.

(2) The law enforcement agency may obtain the fingerprints of the individuals on a form approved by the Department of Justice and provided by the agency. The fingerprint samples shall be submitted to the Department of Justice for the purpose of determining whether the individual has been convicted of any violation, including, but not limited to, Section 220, subdivision (1), (2), (3), or (4) of Section 261, or Section 264.1, 267, 288, or 289 of the Penal Code, or any felony or three misdemeanors which are crimes of violence, as defined in subdivision (g) of Section 11105.3 of the Penal Code.

(3) For purposes of conducting criminal history screening of tow truck driver applicants, employees, and employers who have not resided continuously in the state for the previous seven years, the law enforcement agency of any city, city and county, or county, may obtain a second set of fingerprints, when necessary, and may submit that card to the Federal Bureau of Investigation for out-of-state criminal history checks.

(c) The law enforcement agency of any city, city and county, or county may charge a fee sufficient to cover the cost of obtaining and processing the fingerprint cards through the Department of Justice.

(d) For the purposes of conducting driver history screening of applicants to drive tow trucks, employees, and owners-operators, the law enforcement agency of any city, city and county, or county may verify that the applicant or owner-operator, as the case may be, has a valid California driver's license of the proper class, through the use of the automated records system.

(e) The Department of Justice shall develop a procedure whereby it will notify the requesting law enforcement agency if the person fingerprinted has been convicted of any of the specified crimes or is convicted of a specified crime subsequent to employment or beginning operation of a tow service. The Department of Justice shall release the requested information to the requesting agency.

(f) Information released to the requesting agency may be utilized for licensing and regulating procedures established pursuant to subdivision (g) of Section 21100.

(g) Information released to the requesting agency shall be related to its inquiry, shall remain confidential, and shall not be made public.

Added Ch. 488, Stats. 1991. Effective January 1, 1992.

Article 3.5. Emergency Roadside Assistance  
(Added Ch. 488, Stats. 1991. Effective January 1, 1992.)

**Legislative Intent**

2435. (a) The Legislature finds and declares that the emergency roadside assistance provided by highway service organizations is a valuable service which benefits millions of California motorists. The Legislature further finds and declares that emergency roadside assistance is provided statewide, in cooperation with, and shares resources with, public safety agencies. The Legislature also finds that the Department of the California

Highway Patrol, in cooperation with the Department of Transportation, is responsible for the rapid removal of impediments to traffic on highways within the state and that the Department of the California Highway Patrol may enter into agreements with employers for freeway service patrol operations under an agreement or contract with a regional or local entity. The Legislature declares that it is in the public interest to establish minimum standards for the emergency roadside assistance provided, or contracted for, by highway service organizations or operated under an agreement with a regional or local entity. The Legislature also declares that it is necessary to increase the public input into the development of minimum standards, and for that reason is creating an Advisory Committee to provide advice on the standards. The Legislature declares that it is important to the public safety that drivers who provide emergency roadside service not have criminal records which include violent crimes against persons.

(b) The Legislature also declares that the Department of the California Highway Patrol, in cooperation with the Department of Transportation, shall be responsible for establishing the minimum training standards for highway service organization employees and employers who participate in freeway service patrol operations pursuant to an agreement or contract with a regional or local entity.

Added Ch. 488, Stats. 1991. Effective January 1, 1992.

### **Definitions**

2436. For the purposes of this article, each of the following terms has the meaning given in this section:

(a) "Committee" means the Emergency Roadside Assistance Advisory Committee.

(b) "Emergency road service" is the adjustment, repair, or replacement by a highway service organization of the equipment, tires, or mechanical parts of a motor vehicle so as to permit it to be operated under its own power. "Towing service" is the drafting or moving by a highway service organization of a motor vehicle from one place to another under power other than its own.

(c) "Emergency roadside assistance" means towing service or emergency road service.

(d) "Employer" has the same meaning as defined in Section 2430.1.

(e) "Freeway service patrol" has the same meaning as defined in Section 2561 of the Streets and Highways Code.

(f) "Highway service organization" means a motor club, as defined by Section 12142 of the Insurance Code and, in addition, includes any person or organization which operates or directs the operation of highway service vehicles to provide emergency roadside assistance to motorists, or any person or organization which is reimbursed or reimburses others for the cost of providing emergency roadside assistance, and any employer and include any person or organization which directly or indirectly, with or without compensation, provides emergency roadside assistance.

(g) "Regional or local entity" has the same meaning as defined in Section 2430.1.

(h) "Tow truck driver" has the same meaning as defined in Section 2430.1.

Amended Ch. 1109, Stats. 1992. Effective September 29, 1992.

### **Carrier Identification Number**

2436.3. (a) On and after July 1, 1992, every employer shall obtain from the department a carrier identification number. Application for a carrier identification number shall be on forms furnished by the department. The number shall be displayed on both sides of each tow truck utilized in any

freeway service patrol operation, in accordance with Section 27907.

(b) No employer shall operate a tow truck in any freeway service patrol operation if the carrier identification number issued pursuant to subdivision (a) has been suspended by the commissioner pursuant to Section 2432.1.

(c) The carrier identification number shall be removed before sale, transfer, or other disposal of the vehicle, or upon termination of an agreement or contract for freeway service patrol operations.

(d) A violation of this section is a misdemeanor.

Added Ch. 488, Stats. 1991. Effective January 1, 1992.

### ***Tow Truck Driver Training***

2436.5. (a) The department, in cooperation with the Department of Transportation, shall provide training, pursuant to a reimbursable agreement or contract with a regional or local entity, for all employers and tow truck drivers who are involved in freeway service patrol operations pursuant to an agreement or contract with the regional or local entity. Dispatchers for freeway service patrol operations shall be employees of the department or the Department of Transportation.

(b) The training shall include, but not be limited to, all of the following:

- (1) Tow truck driver and motorist safety.
- (2) Patrol responsibility.
- (3) Vehicle operation.
- (4) Traffic control and scene management.
- (5) Communication procedures.
- (6) Demeanor and courtesy.

Added Ch. 488, Stats. 1991. Effective January 1, 1992.

### ***Required Training: Certificate***

2436.7. (a) Every tow truck driver and employer, involved in a freeway service patrol operation under an agreement or contract with a regional or local entity, shall attend the training specified in subdivision (b) of Section 2436.5.

(b) Upon successful completion of the training, each trainee shall be issued a certificate of completion. The certificate shall state the name of the training organization, the name and signature of the trainer, the name of the trainee, and the date of completion of the training.

(c) The trainee shall provide a copy of the certificate of training to the employer. The employer shall maintain this information in the tow truck driver files established pursuant to subdivision (c) of Section 2430.5.

(d) Every employer shall make the file available for inspection by the department at the employer's primary place of business in this state.

Added Ch. 488, Stats. 1991. Effective January 1, 1992.

### ***Emergency Roadside Assistance Advisory Committee***

2437. (a) The committee is hereby created. The committee shall comprise 10 members which reflect the ethnic and cultural diversity of California, and shall be appointed as follows:

(1) The commissioner shall appoint one person representing law enforcement agencies who shall serve as the committee chairperson and the person who is the Chairperson of the California Service Authority for Freeway Emergencies Committee.

(2) The Governor, or his or her designee, shall appoint four persons representing the general public, one person representing highway service organizations, and one person representing towing service organizations.

(3) The Speaker of the Assembly shall appoint one person representing the general public.

(4) The Senate Committee on Rules shall appoint one person representing the general public.

(b) The committee shall function during the two-year period of the project and shall submit its recommendations to the commissioner on or before July 1, 1994. Those recommendations shall be included in the report submitted to the Legislature pursuant to subdivision (b) of Section 2430. The meetings of the committee shall be public and shall be noticed.

(c) The existence of the committee shall terminate on July 1, 1994, at which time the commissioner shall succeed to the powers and duties of the committee.

Added Ch. 488, Stats. 1991. Effective January 1, 1992.

### ***Standards of Training***

2438. (a) The committee shall recommend standards of training to be provided to each tow service or emergency road service dispatcher and tow service employee providing emergency roadside assistance employed by, or under contract with, a highway service organization.

(b) Training shall include, but not be limited to, all of the following:

(1) Call evaluation.

(2) Courtesy.

(3) Dealing with panic.

(4) Special populations, such as the young, the elderly, and handicapped persons.

(5) Evaluation of motorist safety.

(6) Use of the "911" emergency telephone number.

(c) Training, other than that required by Section 2436.5, may be conducted by emergency roadside assistance organizations or their trade organizations or local law enforcement agencies.

Added Ch. 488, Stats. 1991. Effective January 1, 1992.

### ***Guidelines for Motorist Safety; Roadside Assistance***

2439. The committee shall recommend guidelines for the enhancement of motorist safety setting forth procedures for telephone dispatchers, tow truck drivers, and highway service organizations that reimburse service recipients for emergency roadside assistance. The guidelines shall include, but not be limited to, all of the following:

(a) Enumeration of the order of response priority for dispatching emergency roadside assistance to various types of roadside emergencies requiring either towing service or emergency road service.

(b) Time frame response guidelines for highway service organizations for responding to various categories of assistance requests, including those emanating from freeways, rural areas, and unsafe areas.

(c) A process for highway service organizations to establish a series of safe "pickup points" in appropriate locations, such as parking lots and structures. The process shall include soliciting the recommendations of local law enforcement agencies.

(d) A requirement that, when giving instructions to motorists, the safety of the motorist shall be of primary consideration.

(e) Guidelines for emergency roadside assistance services for which reimbursement is provided.

Added Ch. 488, Stats. 1991. Effective January 1, 1992.

### ***Report to the Commissioner***

2440. Not later than May 15, 1993, and each May 15 thereafter, every highway service organization and employer shall submit a report to the commissioner showing, for the preceding year, the number of calls for

emergency roadside assistance received and responded to, the range of response times, and a summary of the types and numbers of safety-related complaints received from motorists regarding their employees response to, or failure to respond to, motorist's requests for emergency roadside assistance during freeway service patrol operations.

Added Ch. 488, Stats. 1991. Effective January 1, 1992.

**Article 4. Highway Spill Containment and Abatement  
of Hazardous Substances**

(Added Ch. 922, Stats. 1980. Effective January 1, 1981.)

***Hazardous Substances Highway Spill Containment  
and Abatement Act***

2450. This Article shall be known and may be cited as the Hazardous Substances Highway Spill Containment and Abatement Act.

Added Ch. 922, Stats. 1980. Effective January 1, 1981.

***Public Health: Legislative Finding***

2451. The Legislature finds and declares that a statewide program for the management of hazardous substances highway spills, under the jurisdiction of the California Highway Patrol, is necessary to protect the public health and environment.

Added Ch. 922, Stats. 1980. Effective January 1, 1981.

***Hazardous Substance***

2452. "Hazardous substance" means any hazardous material defined in Section 353 and any toxic substance defined pursuant to Section 108145 of the Health and Safety Code.

Amended Sec. 424, Ch. 1023, Stats. 1996. Effective September 29, 1996.

***Hazardous Spill Notification System***

2453. The California Highway Patrol shall serve as statewide information, assistance, and notification coordinator for all hazardous substances spill incidents occurring on highways within the State of California. The California Highway Patrol shall establish a single notification mechanism to serve as a central focus point for a hazardous substances spill response system. To assure timely notification of emergency personnel, the notification mechanism established pursuant to this section shall complement and not conflict with the system established pursuant to subdivision (b) of Section 8574.17 of the Government Code.

Amended Ch. 1214, Stats. 1994. Effective January 1, 1995.

***Incident Command: Hazardous Substance Spill***

2454. (a) The authority for incident command at the scene of an on-highway hazardous substance incident is vested in the appropriate law enforcement agency having primary traffic investigative authority on the highway where the incident occurs. Responsibility for incident command at the scene of an on-highway hazardous substance incident shall continue until all emergency operations at the scene have been completed and order has been restored.

(b) Notwithstanding subdivision (a), the local governing body of a city, whether general law or chartered, which has jurisdiction over the location where an on-highway hazardous substance incident occurs may assign the authority for incident command at the scene of an on-highway hazardous substance incident on local streets and roads, other than freeways, to either the local law enforcement agency or the local fire protection agency. However, the department is responsible for incident command at the scene of an on-highway hazardous substance incident on all highways where the

department has primary traffic investigative authority. Any law enforcement agency having primary traffic investigative authority may enter into written agreements with other public agencies to facilitate incident command at the scene of an on-highway hazardous substance incident on local streets and roads other than freeways.

(c) For purposes of this section, incident command at the scene of an on-highway hazardous substance incident means coordination of operations which occur at the location of a hazardous substance incident. This coordinating function does not include how the specialized functions provided by the various other responding agencies are to be performed. The incident commander at the scene of an on-highway hazardous substance incident shall consult with other response agencies at the scene to ensure that all appropriate resources are properly utilized, and shall perform his or her coordinating function in a manner designed to minimize the risk of death or injury to other persons.

Amended Ch. 1241, Stats. 1992. Effective January 1, 1993.

#### Article5. Renderers and Transporters of Inedible Kitchen Grease

(Added Sec. 3, Ch. 394, Stats. 1998. Effective January 1, 1999.)

#### **Definitions**

2460. (a) The definitions set forth in Article1 (commencing with Section 19200) of Chapter 5 of Part 3 of Division 9 of the Food and Agricultural Code apply for purposes of this article.

(b) A "licensed renderer" is a renderer licensed under Article6 (commencing with Section 19300) of Chapter 5 of Part 3 of Division 9 of the Food and Agricultural Code.

(c) A "registered transporter" is a transporter of inedible kitchen grease registered under Article6.5 (commencing with Section 19310) of Chapter 5 of Part 3 of Division 9 of the Food and Agricultural Code.

(d) A "peace officer" is any peace officer defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code.

Added Sec. 3, Ch. 394, Stats. 1998. Effective January 1, 1999.

#### **Recording and Keeping Records**

2462. (a) In addition to any other records required to be kept pursuant to Chapter 5 (commencing with Section 19200) of Part 3 of Division 9 of the Food and Agricultural Code, every licensed renderer shall record and keep for one year, in connection with the receipt of kitchen grease that is not intended for human food, all of the following information:

(1) The name, address, and registration number of every transporter of inedible kitchen grease who has delivered that material to the renderer.

(2) The total amount of inedible kitchen grease purchased in each transaction.

(3) The date of each transaction.

(b) Every registered transporter of inedible kitchen grease shall record and maintain for one year all of the following:

(1) The name and address of each location from which the transporter obtained the inedible kitchen grease.

(2) The quantity of material received from each location.

(3) The date on which the inedible kitchen grease was obtained from each location.

Added Sec. 3, Ch. 394, Stats. 1998. Effective January 1, 1999.

#### **Maintenance and Exhibition of Records**

2464. All records required to be retained pursuant to this Article shall be maintained at the regular place of business of every licensed renderer and

every registered transporter. Those records shall be exhibited on demand to any peace officer.

Added Sec. 3, Ch. 394, Stats. 1998. Effective January 1, 1999.

### ***Inspection***

2466. Any peace officer may, during normal business hours, inspect any premises maintained by a licensed renderer or registered transporter, and any inedible kitchen grease located on the premises, for the purpose of determining whether that renderer or transporter is complying with the record maintenance requirements of this article.

Added Sec. 3, Ch. 394, Stats. 1998. Effective January 1, 1999.

### ***Failure to Keep and Refusal to Exhibit records: Penalties***

2468. (a) Any licensed renderer who fails in any respect to keep the written records required by this article, or to set out in that written record any matter required by this Article to be set out in the record, is guilty of a misdemeanor.

(b) Every licensed renderer or registered transporter who refuses, upon demand of any peace officer, to exhibit any written record required by this article, or who destroys that record within one year after making the final entry of any information required by this article, is guilty of a misdemeanor.

(c) Any violation of subdivision (b) is punishable as follows:

(1) For a first offense, by a fine of not less than five hundred dollars (\$500), or by imprisonment in the county jail for not more than 30 days, or by both that fine and imprisonment.

(2) For a second offense within a period of one year, by a fine of not less than one thousand dollars (\$1,000), or by imprisonment in the county jail for not more than 30 days, or by both that fine and imprisonment. In addition to any other punishment imposed pursuant to this paragraph, the court may order the defendant to stop engaging in the business as a transporter or renderer for a period not to exceed 30 days.

(3) For a third or any subsequent offense within a period of two years, by a fine of not less than two thousand dollars (\$2,000), or by imprisonment in the county jail for not more than six months, or by both that fine and imprisonment. In addition to any other sentence imposed pursuant to this paragraph, the court shall order the defendant to stop engaging in the business as a transporter or renderer for a period of 30 days.

Added Sec. 3, Ch. 394, Stats. 1998. Effective January 1, 1999.

### ***Registration and Certificate Required***

2470. It is unlawful for any person to engage in the transportation of inedible kitchen grease without being registered with the Department of Food and Agriculture and without being in possession of a valid registration certificate issued by that department.

Added Sec. 3, Ch. 394, Stats. 1998. Effective January 1, 1999.

### ***Transportation Outside the State***

2472. It is unlawful for any person who is not a registered transporter or licensed renderer of inedible kitchen grease to transport that product from any place within this state to any place outside the borders of this state.

Added Sec. 3, Ch. 394, Stats. 1998. Effective January 1, 1999.

### ***Unlawful to Steal, Misappropriate, Contaminate, or Damage***

2474. It is unlawful for any person to steal, misappropriate, contaminate, or damage inedible kitchen grease, or containers thereof.

Added Sec. 3, Ch. 394, Stats. 1998. Effective January 1, 1999.

***Unlawfully Taking Possession***

2476. No licensed renderer, registered transporter, or any other person may take possession of inedible kitchen grease from an unregistered transporter or knowingly take possession of stolen inedible kitchen grease.

Added Sec. 3, Ch. 394, Stats. 1998. Effective January 1, 1999.

***Violations: Penalties***

2478. (a) Any person who is found guilty of violating Section 2470, 2472, 2474, or 2476, or the rules and regulations promulgated under those provisions, is subject to imprisonment in the county jail for not more than one year, or a fine of not more than one thousand dollars (\$1,000), or both that imprisonment and fine.

(b) If the conviction is a second or subsequent conviction of a violation described in subdivision (a), or the violation is committed with intent to defraud or mislead, the person is subject to imprisonment in the state prison, or a fine of not more than ten thousand dollars (\$10,000), or both that imprisonment and fine.

Added Sec. 3, Ch. 394, Stats. 1998. Effective January 1, 1999.

Amended Sec. 186, Ch. 83, Stats. 1999. Effective January 1, 2000.

**CHAPTER 2.5. LICENSES ISSUED BY CALIFORNIA HIGHWAY PATROL**

(Added Ch. 1309, Stats. 1968. Operative January 1, 1969)

**Article1. General Provisions*****Application of Chapter***

2500. The provisions of this chapter shall apply to all licenses issued by the Department of the California Highway Patrol unless the particular provisions applicable to each license otherwise provide.

Added Ch. 1309, Stats. 1968. Operative January 1, 1969.

***Licenses***

2501. The Commissioner of the California Highway Patrol may issue licenses for the operation of privately owned or operated ambulances used to respond to emergency calls, armored cars, fleet owner inspection and maintenance stations, and for the transportation of hazardous material, including the transportation of explosives. Such licenses shall be issued in accordance with the provisions of this chapter and regulations adopted by the commissioner pursuant thereto. All licenses issued by the commissioner shall expire one year from the date of issue. Licenses may be renewed upon application and payment of the renewal fees if the application for renewal is made within the 30-day period prior to the date of expiration. Persons whose licenses have expired shall immediately cease the activity requiring a license, but the commissioner shall accept applications for renewal during the 30-day period following the date of expiration if they are accompanied by the new license fee. In no case shall a license be renewed where the application is received more than 30 days after the date of expiration.

Amended Ch. 294, Stats. 1982. Effective June 22, 1982. Supersedes Ch. 16.

***Form of Application; Fee***

2502. (a) Except as otherwise provided in this section, each application for a new or renewal license shall be accompanied by a fee of ten dollars (\$10) for a new license or five dollars (\$5) for a renewal license. This subdivision does not apply to licenses for transportation of hazardous material or operation of ambulances.

(b) Each application for a new or renewal license for the operation of ambulances shall be accompanied by a fee not to exceed two hundred dollars



(\$200) for a new license or one hundred fifty dollars (\$150) for a renewal license.

(c) Each application for a new or renewal license to transport hazardous material shall be accompanied by a fee of not to exceed one hundred dollars (\$100) for a new license and not to exceed seventy-five dollars (\$75) for a renewal license.

(d) Each application shall be made upon a form furnished by the commissioner. It shall contain information concerning the applicant's background and experience which the commissioner may prescribe, in addition to other information required by law.

Amended Sec. 263, Ch. 539, Stats. 1996. Effective January 1, 1997.

### ***Transfer or Replacement of License***

2503. (a) Licenses issued by the commissioner shall not be transferable. A change in ownership or control of the licensed activity shall render the existing license null and void and a new license shall be required. A change in ownership or control includes, but is not limited to, a change in corporate status, or a stock transfer of shares possessing more than 50 percent of the voting power of the corporation. A change in ownership or control does not include the addition or deletion of partners, officers, directors, or board members comprising 50 percent or less ownership or control of the licensed activity if both of the following are complied with:

(1) The new partners, officers, directors, or board members have not committed any acts described in Section 2541.

(2) An amended license application form indicating the changes and any other information required pursuant to subdivision (d) of Section 2502 is submitted to the commissioner within 10 days of the change.

(b) In the event of a change of name, not involving a change of ownership or control, the license shall be returned to the commissioner for cancellation, and a new license application form shall be submitted. The commissioner shall cancel the returned license and issue a new license for the unexpired term without a fee.

(c) In the event of loss, destruction, or mutilation of a license issued by the commissioner, the person to whom it was issued may obtain a duplicate upon paying a fee of five dollars (\$5). Any person who loses a license issued by the commissioner and who, after obtaining a duplicate, finds the original license, shall immediately surrender the original license to the commissioner.

(d) Any change of address or relocation of a licensed service shall be reported to the commissioner within 10 days.

Amended Sec. 3, Ch. 1008, Stats. 1999. Effective January 1, 2000.

### ***Violation of Regulations***

2504. It is unlawful to violate any regulation adopted by the commissioner pursuant to this chapter.

Amended Ch. 1067, Stats. 1970. Effective November 23, 1970.

### ***Term of License***

2505. Notwithstanding Sections 2501 and 2502, for the purpose of staggering license renewals subject to this chapter, the commissioner may, during any 12-month period, issue licenses that expire 6 to 18 months from the date of issue. Subsequent renewal of these licenses shall be for a period of 12 months. Fees with respect to these licenses for more or less than one year shall be prorated accordingly.

This section applies only to licenses for the transportation of hazardous materials established on or after January 1, 1982.

Added Ch. 1230, Stats. 1984. Effective January 1, 1985. Supersedes Ch. 488.

Article 2. Privately Owned and Operated Ambulances  
and Armored Cars

***License for Ambulance or Armored Car***

2510. (a) A person applying for a license to operate ambulances or armored cars shall provide separate identification data and reports of inspection for each vehicle as prescribed by the commissioner.

(b) No person shall operate a privately owned emergency ambulance or armored car until the California Highway Patrol has determined that the vehicle is in compliance with this code and regulations adopted by the commissioner. Ambulances licensed by the department shall be inspected by the department not less often than once annually.

Amended Ch. 955, Stats. 1984. Effective January 1, 1985.

***Eligibility for License***

2511. Licenses for the operation of ambulances may be issued only to those persons or entities which operate ambulances designed and operated exclusively as such and which are used to respond to emergency calls.

Added Ch. 1309, Stats. 1968. Operative January 1, 1969.

***Regulations Governing Ambulance Service: Handbook***

2512. (a) The commissioner, after consultation with, and pursuant to the recommendations of, the Emergency Medical Service Authority and the department, shall adopt and enforce reasonable regulations as the commissioner determines are necessary for the public health and safety regarding the operation, equipment, and certification of drivers of all ambulances used for emergency services. The regulations shall not conflict with standards established by the Emergency Medical Service Authority pursuant to Section 1797.170 of the Health and Safety Code. The commissioner shall exempt, upon request of the county board of supervisors that an exemption is necessary for public health and safety, noncommercial ambulances operated within the county from the regulations adopted under this section as are specified in the board of supervisors' request. The Emergency Medical Service Authority shall be notified by the county boards of supervisors of any exemptions.

(b) The department, in cooperation with the Department of the California Highway Patrol and the Emergency Medical Service Authority, may adopt and administer regulations relating to the issuance, suspension, or revocation of ambulance driver's certificates. In addition to the fee authorized in Section 2427, the department shall charge a fee of twenty-five dollars (\$25) for the issuance of an original certificate and twelve dollars (\$12) for the renewal of that certificate, and, in the administration thereof, to exercise the powers granted to the commissioner by this section.

(c) This section shall not preclude the adoption of more restrictive regulations by local authorities, except that inspection of ambulances pursuant to subdivision (b) of Section 2510 shall not be duplicated by local authorities. It is the intent of the Legislature that regulations adopted by the commissioner pursuant to this section shall be the minimum necessary to protect public health and safety, and shall not be so restrictive as to preclude compliance by ambulances operated in sparsely populated areas. This subdivision does not relieve the owner or driver of any ambulance from compliance with Section 21055.

(d) The Department of the California Highway Patrol after consultation with the department and the Emergency Medical Service Authority shall prepare, and make available for purchase, an ambulance driver's handbook.

Amended Sec. 5, Ch. 440, Stats. 1996. Effective January 1, 1997.

Article 3.5. Inspection and Maintenance Stations  
(Amended Ch. 502, Stats. 1975. Effective January 1, 1976)

**Definitions**

2525. For purposes of this article:

(a) "Fleet owner" means an owner of a fleet of three or more vehicles that are any one or more of the types specified in Section 34500 who is engaged in the transportation of persons or property and whose vehicles are registered in California.

(b) "Inspection and maintenance station" means a facility operated by a fleet owner to inspect and maintain his own vehicles and licensed by the commissioner pursuant to this chapter.

Amended Ch. 502, Stats. 1975. Effective January 1, 1976.

**Administrative Regulations**

2525.2. The commissioner may adopt such regulations as are necessary to administer the provisions of this article. A fleet owner licensed by the commissioner as an inspection and maintenance station pursuant to this chapter shall comply with such regulations.

Amended Ch. 502, Stats. 1975. Effective January 1, 1976.

**Licensed Fleet Owners**

2525.4. (a) Fleet owners licensed as inspection and maintenance stations shall do all of the following:

(1) Conduct all installations, adjustments, inspections, and maintenance under the supervision of, and subject to the regulations of, the department, and subject to Division 12 (commencing with Section 24000).

(2) If engaged in interstate transportation, also conduct inspections and maintenance in accordance with the requirements of the United States Department of Transportation.

(3) If operating or maintaining vehicles described in subdivisions (a), (b), (d), (e), (f), or (g), of Section 34500, enroll each licensed inspection and maintenance station for inspection by the Department of the California Highway Patrol pursuant to subdivision (d) of Section 34501.12 and pay the fees required by subdivision (e) of that section.

(b) Fleet owners may not certify the adjustment of lamps or brakes or the installation, inspection, repair, or servicing of motor vehicle pollution control devices or systems, except for vehicles in the owner's fleet.

Amended Ch. 1243, Stats. 1992. Effective September 30, 1992.

**Sticker Certifying Compliance**

2525.6. Each fleet owner licensed as an inspection and maintenance station may place upon a vehicle which it has inspected and maintained, or upon which it has installed or adjusted required equipment, a sticker, in a form approved by the commissioner, certifying the compliance of such vehicle with all pertinent requirements imposed upon such vehicle by this code, or regulations adopted thereunder, and, if applicable, by the United States Department of Transportation. Such stickers shall remain valid for a period of one year and shall not be placed on any vehicle which is not part of the fleet.

Amended Ch. 502, Stats. 1975. Effective January 1, 1976.

**Regulation Governing Issuance of Stickers**

2525.8. The commissioner shall make and enforce regulations with respect to the issuance of stickers to be displayed upon vehicles owned or operated by a fleet owner which has complied with Section 2525.6.

Added Ch. 1067, Stats. 1970. Effective November 23, 1970.

**Violations**

2525.10. It is unlawful and constitutes a separate offense for any person to knowingly place or knowingly permit to be placed any sticker authorized by this Article on any vehicle which does not comply with all the equipment requirements of this code or regulations adopted thereunder.

Added Ch. 1067, Stats. 1970. Effective November 23, 1970.

**Fee**

2525.12. The commissioner may charge a fee for the stickers furnished to fleet owner inspection and maintenance stations. The fee charged shall be established by regulation and shall not produce a total estimated revenue which, together with license fees charged pursuant to Sections 2502 and 2503, is in excess of the estimated total cost to the department of the administration of the statutes relating to fleet owner inspection and maintenance stations.

Amended Ch. 502, Stats. 1975. Effective January 1, 1976.

Article 4. Transportation of Hazardous Material  
(Repealed and Added, Ch. 860, Stats. 1981. Effective January 1, 1982)

***License Denial, Suspension, or Revocation***

2531. In addition to taking action pursuant to Article 5 (commencing with Section 2540), the commissioner may deny, suspend, or revoke a license to transport hazardous material when it is evident that the applicant or licensee or his or her employees have repeatedly violated any provision of law to such an extent as to demonstrate that it would be unsafe and not in the public interest to permit the applicant or licensee to operate or permit the operation of any vehicle owned or controlled by him or her for the transportation of hazardous material upon the public highways.

Amended Ch. 161, Stats. 1989. Effective January 1, 1990.

**Regulations**

2532. The commissioner may adopt such regulations as are necessary to administer the provisions of this article.

Repealed and Added, Ch. 860, Stats. 1981. Effective January 1, 1982.

Article 5. Denial, Suspension and Revocation

***Denial, Suspension or Revocation of License***

2540. Any license issued may be suspended or revoked by the commissioner. The commissioner may refuse to issue a license to any applicant for the reasons set forth in Section 2531 or 2541. The proceedings under this Article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the commissioner shall have all the powers granted therein.

Amended Ch. 860, Stats. 1981. Effective January 1, 1982.

***Grounds for Denial of License***

2541. (a) The commissioner may deny a license if the applicant or any partner, officer, or director thereof:

(1) Fails to meet the qualifications established by the department pursuant to this chapter for the issuance of the license applied for.

(2) Was previously the holder of a license issued under this chapter which license has been revoked and never reissued or which license was suspended and the terms of the suspension have not been fulfilled.

(3) Has committed any act which, if committed by any licensee, would be

grounds for the suspension or revocation of a license issued pursuant to this chapter.

(4) Has committed any act involving dishonesty, fraud, or deceit whereby another is injured or whereby the applicant has benefited.

(5) Has acted in the capacity of a licensed person or firm under this chapter without having a license therefor.

(6) Has entered a plea of guilty or nolo contendere to, or been found guilty of, or been convicted of, a felony, or a crime involving moral turpitude, and the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal, irrespective of an order granting probation following such conviction, suspending the imposition of sentence, or of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his plea of guilty and to enter a plea of not guilty, or setting aside the plea or verdict of guilty, or dismissing the accusation or information.

(b) The commissioner may also deny a license if a corporation is the applicant and the policy or activities of the corporation are or will be directed, controlled, or managed by individuals or shareholders who are ineligible for a license, and the licensing of that corporation would likely defeat the purpose of this section.

Amended Ch. 16, Stats. 1982. Effective January 1, 1983.

### ***Grounds for Disciplinary Action***

2542. The commissioner may suspend, revoke, or take other disciplinary action against a license as provided in this Article if the licensee or any partner, officer, director, controlling shareholder, or manager thereof:

(a) Violates any section of this code which relates to his or her licensed activities.

(b) Is convicted of any felony.

(c) Is convicted of any misdemeanor involving moral turpitude.

(d) Violates any of the regulations promulgated by the commissioner pursuant to this chapter.

(e) Commits any act involving dishonesty, fraud, or deceit whereby another is injured or any act involving moral turpitude.

(f) Has misrepresented a material fact in obtaining a license.

(g) Aids or abets an unlicensed person to evade this chapter.

(h) Fails to make and keep records showing his or her transactions as a licensee, or fails to have these records available for inspection by the commissioner or his or her duly authorized representative for a period of not less than three years after completion of any transaction to which the records refer, or refuses to comply with a written request of the commissioner to make such record available for inspection.

(i) Violates or attempts to violate this chapter relating to the particular activity for which he is licensed.

(j) Fails to equip or maintain his or her vehicles, as required by this code or by the regulations adopted pursuant to this code.

Amended Ch. 161, Stats. 1989. Effective January 1, 1990.

### ***Convictions***

2543. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this article. The commissioner may order the license suspended or revoked, or may decline to issue a license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of

the Penal Code allowing such person to withdraw his plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

Added Ch. 1309, Stats. 1968. Operative January 1, 1969.

### ***Disciplinary Actions***

2544. The commissioner may take disciplinary action against any license after a hearing as provided in this chapter by any of the following:

(a) Imposing probation upon terms and conditions to be set forth by the commissioner.

(b) Suspending the license.

(c) Revoking the license.

Added Ch. 1309, Stats. 1968. Operative January 1, 1969.

### ***Surrender of License***

2545. Upon the effective date of any order of suspension or revocation of any license governed by this chapter, the licensee shall surrender the license to the commissioner.

Added Ch. 1309, Stats. 1968. Operative January 1, 1969.

### ***Continuing Jurisdiction***

2546. The expiration or suspension of a license by operation of law or by order or decision of the commissioner or a court of law, or the voluntary surrender of a license by a licensee shall not deprive the commissioner of jurisdiction to proceed with any investigation of or action or disciplinary proceedings against such licensee, or to render a decision suspending or revoking such license.

Added Ch. 1309, Stats. 1968. Operative January 1, 1969.

### ***Period for Filing Accusations***

2547. All accusations against licensees shall be filed within three years after the act or omission alleged as the ground for disciplinary action, except that with respect to an accusation alleging a violation of subdivision (f) of Section 2542, the accusation may be filed within two years after the discovery by the California Highway Patrol of the alleged facts constituting the fraud or misrepresentation prohibited by said section.

Added Ch. 1309, Stats. 1968. Operative January 1, 1969.

### ***Revocation or Suspension of Additional Licenses***

2548. When any license has been revoked or suspended following a hearing under the provisions of this chapter, any additional license issued under this chapter in the name of the licensee may be likewise revoked or suspended by the commissioner.

Added Ch. 1309, Stats. 1968. Operative January 1, 1969.

### ***Reinstatement of License***

2549. After suspension of the license upon any of the grounds set forth in this article, the commissioner may reinstate the license upon proof of compliance by the applicant with all provisions of the decision as to reinstatement. After revocation of a license upon any of the grounds set forth in this article, the license shall not be reinstated or reissued within a period of one year after the effective date of revocation.

Added Ch. 1309, Stats. 1968. Operative January 1, 1969.

### **Article 7. Transportation of School Pupils**

(Added Ch. 1563, Stats. 1990. Effective January 1, 1991.)

### ***Private Schoolbuses Contractors: Licensing***

2570. It is the intent of the Legislature, in enacting this chapter, that

the public be provided additional protection through the licensing of private schoolbus contractors transporting school pupils under contracts with school districts, and that the Department of the California Highway Patrol be authorized to inspect and license the contractors described in subdivision (a), giving special attention directed to negligent operators or repeat violators.

Added Ch. 1563, Stats. 1990. Effective January 1, 1991.

### ***License Fees***

2571. Every private schoolbus contractor who contracts with a school district for the transportation of school pupils shall be licensed in accordance with regulations adopted by the commissioner. The license fee shall be one hundred dollars (\$100) for an initial license and seventy-five dollars (\$75) for each annual renewal.

Added Ch. 1563, Stats. 1990. Effective January 1, 1991.

### ***Regulations: Violations***

2572. (a) The commissioner may adopt whatever regulations are necessary to administer this chapter. The regulations shall be consistent with regulations regarding schoolbuses and schoolbus drivers adopted by the commissioner pursuant to other provisions of law.

(b) In addition to any other requirements, it is unlawful for the private schoolbus contractor or the person who directs the driver to operate a vehicle transporting school pupils, when that transportation requires a license, to knowingly cause the operation of the vehicle unless the private schoolbus contractor holds a valid license for the transportation of school pupils. A violation of this subdivision shall be punished by a fine of not more than two thousand dollars (\$2,000).

Added Ch. 1563, Stats. 1990. Effective January 1, 1991.

### ***License Suspension***

2573. (a) The commissioner may temporarily suspend a license to transport school pupils under contract with a school district, subject to a hearing conducted pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, when, in the commissioner's opinion, the action is necessary to prevent an imminent and substantial danger to the public health.

(b) The commissioner may, following a hearing, suspend a license to transport school pupils under contract with a school district, for a period of at least 30 days but not more than 90 days, if the holder of the license knowingly permits the transportation of school pupils by a person who does not possess the appropriate driver's license and driver's certificate.

(c) The suspensions authorized pursuant to subdivisions (a) and (b) may, at the discretion of the commissioner, be enforced for all operations of a schoolbus contractor, or for the operations of the contractor in the school district in which the alleged violations occurred, or for the operations of the contractor in the contractor's terminal in which the alleged violations occurred.

(d) The commissioner shall provide notification of a suspension hearing to those school districts whose terminals would be affected by the suspension.

Added Ch. 1563, Stats. 1990. Effective January 1, 1991.

### ***Fees: Disposition***

2574. (a) All fees collected by the Department of the California Highway Patrol pursuant to the issuance or renewal of a license for the transportation of school pupils under contract with a school district shall be deposited in the Motor Vehicle Account of the State Transportation Fund.

(b) All moneys collected from these fees shall be used for the support of

the licensing program of the department upon appropriation therefor by the Legislature.

Added Ch. 1563, Stats. 1990. Effective January 1, 1991.

### ***Report to Legislature***

2575. The Department of the California Highway Patrol shall submit a report to the Legislature on or before January 1, 1993, concerning the implementation of the licensing and inspection program under this chapter, including, but not limited to, the amount collected for license fees and the nature of the violations charged.

Added Ch. 1563, Stats. 1990. Effective January 1, 1991.

## **CHAPTER 3. THE RECIPROCITY COMMISSION**

### **Article 1. Administration**

#### ***Members of Reciprocity Commission***

2600. The Reciprocity Commission is composed of the Lieutenant Governor, the Director of Motor Vehicles, the Director of Transportation, the State Controller, and the Commissioner of the California Highway Patrol.

Amended Ch. 545, Stats. 1974. Effective January 1, 1975.

#### ***Compensation***

2601. All of the members of the commission shall serve thereon without additional compensation, but they shall receive their necessary actual traveling expenses incurred in the discharge of their duties.

#### ***Action by Majority***

2602. A majority of the members of the commission may act for the commission.

#### ***Assistance From Director***

2603. The Director of Motor Vehicles shall provide such assistance to the commission as it may require.

### **Article 2. Powers and Duties**

#### ***Agreements***

2650. The commission is empowered to enter into formal agreements or arrangements as provided in Article 3 of Chapter 4 of Division 3, commencing at Section 8000.

#### ***Rules and Regulations***

2651. The commission may adopt such rules and regulations as may be necessary to effectuate the powers granted to it by this code.

## **CHAPTER 4. ADMINISTRATION AND ENFORCEMENT**

### **Article 1. Lawful Orders and Inspections**

#### ***Obedience to Traffic Officers***

2800. (a) It is unlawful to willfully fail or refuse to comply with any lawful order, signal, or direction of any peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, when that peace officer is in uniform and is performing duties under any of the provisions of this code, or to refuse to submit to any lawful inspection under this code.

(b) Except as authorized under Section 24004, it is unlawful to fail or



refuse to comply with any lawful out-of-service order issued by any peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, when that peace officer is in uniform and is performing duties under any provision of this code and the out-of-service order complies with Sections 395.13 and 396.9 of Title 49 of the Code of Federal Regulations.

Amended Sec. 29.5, Ch. 724, Stats. 1999. Effective January 1, 2000.

### ***Evading a Peace Officer***

2800.1. (a) Any person who, while operating a motor vehicle and with the intent to evade, willfully flees or otherwise attempts to elude a pursuing peace officer's motor vehicle, is guilty of a misdemeanor if all of the following conditions exist:

(1) The peace officer's motor vehicle is exhibiting at least one lighted red lamp visible from the front and the person either sees or reasonably should have seen the lamp.

(2) The peace officer's motor vehicle is sounding a siren as may be reasonably necessary.

(3) The peace officer's motor vehicle is distinctively marked.

(4) The peace officer's motor vehicle is operated by a peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, and that peace officer is wearing a distinctive uniform.

(b) Any person who, while operating a motor vehicle and with the intent to evade, willfully flees or otherwise attempts to elude a pursuing peace officer's bicycle, is guilty of a misdemeanor if the following conditions exist:

(1) The peace officer's bicycle is distinctively marked.

(2) The peace officer's bicycle is operated by a peace officer, as defined in paragraph (4) of subdivision (a), and that peace officer is wearing a distinctive uniform.

(3) The peace officer gives a verbal command to stop.

(4) The peace officer sounds a horn that produces a sound of at least 115 decibels.

(5) The peace officer gives a hand signal commanding the person to stop.

(6) The person is aware or reasonably should have been aware of the verbal command, horn, and hand signal, but refuses to comply with the command to stop.

Amended Sec. 1, Ch. 68, Stats. 1995. Effective January 1, 1996.

### ***Evading a Peace Officer: Reckless Driving***

2800.2. (a) If a person flees or attempts to elude a pursuing peace officer in violation of Section 2800.1 and the pursued vehicle is driven in a willful or wanton disregard for the safety of persons or property, the person driving the vehicle, upon conviction, shall be punished by imprisonment in the state prison, or by confinement in the county jail for not less than six months nor more than one year. The court may also impose a fine of not less than one thousand dollars (\$1,000) nor more than ten thousand dollars (\$10,000), or may impose both that imprisonment or confinement and fine.

(b) For purposes of this section, a willful or wanton disregard for the safety of persons or property includes, but is not limited to, driving while fleeing or attempting to elude a pursuing peace officer during which time either three or more violations that are assigned a traffic violation point count under Section 12810 occur, or damage to property occurs.

Amended Sec. 1, Ch. 420, Stats. 1996. Effective January 1, 1997.

Amended Sec. 1, Ch. 472, Stats. 1998. Effective January 1, 1999.

### ***Evading a Peace Officer Causing Injury or Death***

2800.3. Whenever willful flight or attempt to elude a pursuing peace

officer in violation of Section 2800.1 proximately causes death or serious bodily injury to any person, the person driving the pursued vehicle, upon conviction, shall be punished by imprisonment in the state prison for three, four, or five years, by imprisonment in the county jail for not more than one year, or by a fine of not less than two thousand dollars (\$2,000) nor more than ten thousand dollars (\$10,000), or by both that fine and imprisonment.

For purposes of this section, “serious bodily injury” has the same meaning as defined in paragraph (4) of subdivision (f) of Section 243 of the Penal Code.

Amended Sec. 2, Ch. 420, Stats. 1996. Effective January 1, 1997.

Amended Sec. 1, Ch. 256, Stats. 1998. Effective January 1, 1999.

### ***Obedience to Firemen***

2801. It is unlawful to wilfully fail or refuse to comply with any lawful order, signal, or direction of any member of any fire department, paid, volunteer, or company operated, when wearing the badge or insignia of a fireman and when in the course of his duties he is protecting the personnel and fire department equipment.

### ***Load Inspection***

2802. (a) Any traffic officer having reason to believe that a vehicle is not safely loaded or that the height, width, length, or weight of a vehicle and load is unlawful may require the driver to stop and submit to an inspection, measurement, or weighing of the vehicle. The weighing may be done either by means of portable or stationary scales and the officer may require that the vehicle be driven to the nearest scale facility, in the event the scales are within five road miles.

(b) Selected inspection facilities and platform scales operated by the Department of the California Highway Patrol may, at the discretion of the commissioner, be open for extended hours, up to and including 24 hours every day. The primary purpose of the extended hours is to assist in the detection of overweight vehicles. These inspection facilities and platform scales shall be located near primary border route points of entry into the state and key routes within the state.

(c) An amount not to exceed one million dollars (\$1,000,000) shall be available annually from the Motor Vehicle Account in the State Transportation Fund, upon appropriation by the Legislature, for the expanded operation of the scale facilities, as specified in subdivision (b). It is the intent of the Legislature that the funds made available pursuant to this subdivision shall be the only funds available for purposes of this section.

Amended Ch. 19, Stats. 1993. Effective January 1, 1994.

### ***Control of Illegal Size or Weight***

2803. (a) If the traffic officer determines that the vehicle is not safely loaded or that the height, width, length, or weight is unlawful, he may require the driver to stop in a suitable place and reload or remove such portion of the load as may be necessary to render the load safe or to reduce it to the limits permitted under this code. A suitable place is an area which allows the least obstruction to the highway and which requires the least travel on the highway by the vehicle. Determination of the suitability of an area shall be made by the traffic officer who requires the adjustment. All material so unloaded shall be cared for by the owner or operator of the vehicle at the risk of the owner or operator.

(b) If a certified weight certificate or bill of lading accompanies a vehicle which has been determined to be overweight due to the load on the vehicle, the driver shall submit the certified weight certificate or bill of lading, whichever is appropriate, to the traffic officer when the overweight load is

removed in the presence of the officer. The officer may note on the certified weight certificate or bill of lading submitted by the driver the fact that a portion of the load has been removed to bring the vehicle and load within the allowable weight limit specified in this code, and the officer shall return the certificate or bill of lading to the driver.

(c) If the height, width or length of the vehicle is unlawful, irrespective of any load thereon, or if an unladen vehicle is overweight, the traffic officer may prohibit further movement of the vehicle until a permit is obtained as provided in Section 35780.

Amended Ch. 506, Stats. 1977. Effective January 1, 1978.

### ***Inspection by Patrol Members***

2804. A member of the California Highway Patrol upon reasonable belief that any vehicle is being operated in violation of any provisions of this code or is in such unsafe condition as to endanger any person, may require the driver of the vehicle to stop and submit to an inspection of the vehicle, and its equipment, license plates, and registration card.

### ***Inspection of Vehicles***

2805. (a) For the purpose of locating stolen vehicles, (1) any member of the California Highway Patrol, or (2) a member of a city police department, a member of a county sheriff's office, or a district attorney investigator, whose primary responsibility is to conduct vehicle theft investigations, may inspect any vehicle of a type required to be registered under this code, or any identifiable vehicle component thereof, on a highway or in any public garage, repair shop, terminal, parking lot, new or used car lot, automobile dismantler's lot, vehicle shredding facility, vehicle leasing or rental lot, vehicle equipment rental yard, vehicle salvage pool, or other similar establishment, or any agricultural or construction work location where work is being actively performed, and may inspect the title or registration of vehicles, in order to establish the rightful ownership or possession of the vehicle or identifiable vehicle component.

As used in this subdivision, "identifiable vehicle component" means any component which can be distinguished from other similar components by a serial number or other unique distinguishing number, sign, or symbol.

(b) A member of the California Highway Patrol, a member of a city police department or county sheriff's office, or a district attorney investigator whose primary responsibility is to conduct vehicle theft investigations, may also inspect, for the purposes specified in subdivision (a), implements of husbandry, special construction equipment, forklifts, and special mobile equipment in the places described in subdivision (a) or when that vehicle is incidentally operated or transported upon a highway.

(c) Whenever possible, inspections conducted pursuant to subdivision (a) or (b) shall be conducted at a time and in a manner so as to minimize any interference with, or delay of, business operations.

Amended Sec. 21, Ch. 688, Stats. 2000. Effective January 1, 2001.

### ***Vehicle and Equipment Inspection***

2806. Any regularly employed and salaried police officer or deputy sheriff having reasonable cause to believe that any vehicle or combination of vehicles is not equipped as required by this code or is in such unsafe condition as to endanger any person, may require the driver to stop and submit the vehicle or combination of vehicles to an inspection and such tests as may be appropriate to determine the safety to persons and compliance with the code.

Amended Ch. 1110, Stats. 1967. Effective November 8, 1967.

***Schoolbus Inspection***

2807. (a) The California Highway Patrol shall inspect every schoolbus at least once each school year to ascertain whether its construction, design, equipment, and color comply with all provisions of law.

(b) No person shall drive any schoolbus unless there is displayed therein a certificate issued by the California Highway Patrol stating that on a certain date, which shall be within 13 months of the date of operation, an authorized employee of the California Highway Patrol inspected the bus and found that on the date of inspection the bus complied with the applicable provisions of state law relating to construction, design, equipment, and color. The Commissioner of the California Highway Patrol shall provide by rule or regulation for the issuance and display of distinctive inspection certificates.

Amended Ch. 580, Stats. 1969. Effective November 10, 1969.

***Inspection of School Pupil Activity Buses:  
Display of Inspection Certificates***

2807.1 (a) The Department of the California Highway Patrol shall inspect and certify every school pupil activity bus specified in Section 546 at least once each year to ascertain whether its condition complies with all provisions of the law.

(b) No person shall drive any motor vehicle specified in subdivision (a) unless there is displayed therein a certificate issued by the Department of the California Highway Patrol stating that on a certain date, which shall be within 13 months of the date of operation, an authorized employee of the Department of the California Highway Patrol inspected such motor vehicle and found that on the date of inspection such motor vehicle complied with the applicable provisions of the state law. The Commissioner of the California Highway Patrol shall provide by rule or regulation for the issuance and display of distinctive inspection certificates.

Amended Ch. 813, Stats. 1981. Effective January 1, 1982.

***Preventive Maintenance Inspection***

2807.2. The Department of the California Highway Patrol shall, by regulation, provide for a preventive maintenance inspection guide for use by operators of tour buses, motor vehicles specified in Sections 2807 and 2807.1, and vehicles described in subdivisions (a), (b), (d), (e), (f), and (g) of Section 34500. The regulations shall provide that the record of inspection shall be signed by the person making the inspection, and the record of the inspections shall be retained on file by the operator for review and inspection by the Department of the California Highway Patrol.

Amended Ch. 1586, Stats. 1988. Operative July 1, 1989.

***Inspection of Youth Bus***

2807.3. (a) The Department of the California Highway Patrol shall inspect and certify every youth bus at least once each school year to ascertain whether its condition complies with all provisions of law.

(b) No person shall drive any youth bus unless there is displayed therein a certificate issued by the Department of the California Highway Patrol stating that on a certain date, which shall be within 13 months of the date of operation, an authorized employee of the Department of the California Highway Patrol inspected the youth bus and found that on the date of inspection the youth bus complied with the applicable provisions of state law. The Commissioner of the California Highway Patrol shall provide, by rule or regulation, for the issuance and display of distinctive inspection certificates.

(c) The Commissioner of the California Highway Patrol may determine the fee and method of collection for the annual inspection of youth buses. The

fee, established by regulation, shall be sufficient to cover the cost to the department for youth bus inspections and testing of drivers pursuant to Section 12523. All fees received shall be deposited in the Motor Vehicle Account in the State Transportation Fund.

Amended Ch. 1273, Stats. 1982. Effective January 1, 1983.

### ***Private Schoolbus Requirements***

2808. (a) Except as provided in subdivision (b), all schoolbuses transporting pupils to or from any private school or private school activity shall be subject to the same statutes, rules, and regulations relating to construction, design, operation, equipment, and color as are now or hereafter applicable to schoolbuses transporting pupils to or from any public school or public school activity.

(b) Schoolbuses shall be exempt from such statutes, rules, and regulations relating to construction, design, safe operation, and equipment as the Commissioner of the California Highway Patrol shall determine necessary to permit such schoolbuses to continue in operation or when it appears that the results intended to be attained by such rules and regulations are being accomplished by the use of other methods. Such exemption shall be specified by rule or regulation of the commissioner. No such exemption shall be made which in the opinion of the commissioner would jeopardize the safety of the pupils so transported.

Amended Ch. 406, Stats. 1977. Effective August 27, 1977.

### ***California Highway Patrol Scales***

2809. All scales and weighing instruments used by any member of the California Highway Patrol to enforce the provisions of this code with respect to weight limitations shall be inspected and certified as to accuracy at least once in each calendar year by the Bureau of Weights and Measures of the Department of Food and Agriculture or by a county sealer of weights and measures.

Amended Ch. 545, Stats. 1974. Effective January 1, 1975.

### ***Inspection to Prevent Theft***

2810. (a) A member of the California Highway Patrol may stop any vehicle transporting any timber products, livestock, poultry, farm produce, crude oil, petroleum products, or inedible kitchen grease, and inspect the bills of lading, shipping or delivery papers, or other evidence to determine whether the driver is in legal possession of the load, and, upon reasonable belief that the driver of the vehicle is not in legal possession, shall take custody of the vehicle and load and turn them over to the custody of the sheriff of the county in which the timber products, livestock, poultry, farm produce, crude oil, petroleum products, or inedible kitchen grease, or any part thereof, is apprehended.

(b) The sheriff shall receive and provide for the care and safekeeping of the apprehended timber products, livestock, poultry, farm produce, crude oil, petroleum products, or inedible kitchen grease, or any part thereof, and immediately, in cooperation with the department, proceed with an investigation and its legal disposition.

(c) Any expense incurred by the sheriff in the performance of his or her duties under this section shall be a legal charge against the county.

Amended Sec. 4, Ch. 394, Stats. 1998. Effective January 1, 1999.

Amended Sec. 187, Ch. 83, Stats. 1999. Effective January 1, 2000.

### ***Household Goods Carriers: Vehicle Inspection***

2810.1. (a) Any traffic officer may stop any commercial vehicle, as defined in Section 260, that is a rental vehicle and inspect the bills of lading,

shipping, delivery papers, or other evidence to determine whether the driver is transporting household goods in violation of the Household Goods Carriers Act (Chapter 7 (commencing with Sec. 5101) of Division 2 of the Public Utilities Code). The officer may only stop and inspect where the officer has probable cause to believe that the vehicle is being operated in violation of that act.

(b) It is a public offense, for which an officer may issue a citation, for a driver to unlawfully transport household goods in violation of the Household Goods Carriers Act. That public offense is punishable as prescribed in Article 8 (commencing with Section 5311) of Chapter 7 of Division 2 of the Public Utilities Code. It is an infraction to refuse to submit to an inspection as authorized by subdivision (a).

(c) A copy of the citation for any offense described in subdivision (b) shall be sent by the the department that employs the traffic officer to the Director of the Consumer Services Division of the California Public Utilities Commission. A copy of a citation shall be removed from any record of the commission upon a showing that the person was not convicted of the offense or that bail was not forfeited for that offense. A person for whom a copy of a citation has been sent to the commission and is on file with the commission may request the commission for an administrative hearing on that matter.

Added Sec. 1, Ch. 250, Stats. 1997. Effective January 1, 1998.

### ***Damage to Fences***

2811. Any traffic officer who observes a fence along any highway, which has been damaged as a result of a traffic accident, shall promptly report same to the owner, lessee, occupant, or person in charge of the property enclosed by the fence, or to the local headquarters of the department.

### ***Closing of Highways***

2812. Whenever poisonous gas, explosives, dust, smoke, or other similar substances, or fire exist upon or so near a public highway as to create a menace to public health or safety, members of the California Highway Patrol, police departments, or sheriff's office may close any highway to traffic when necessary to protect the public from such dangers. Whenever a highway is closed, the governmental agency having control over the highway shall be immediately notified of the reason of the closing and the location.

### ***Commercial Vehicles: Highways: Restricted or Prohibited Use***

2812.5. Whenever visibility limitations pose a significant safety hazard, as determined by a member of the California Highway Patrol, that member may restrict or prohibit the use of any highway by any vehicle subject to regulation by the Department of the California Highway Patrol pursuant to Section 34500.

Added Ch. 1190, Stats. 1992. Effective January 1, 1993.

### ***Commercial Vehicle Inspection--Smoke Emissions***

2813. Every driver of a commercial vehicle shall stop and submit the vehicle to an inspection of the size, weight, equipment, and smoke emissions of the vehicle at any location where members of the California Highway Patrol are conducting tests and inspections of commercial vehicles and when signs are displayed requiring the stop. Every driver who fails or refuses to stop and submit the vehicle to an inspection when signs are displayed requiring that stop is guilty of a misdemeanor.

Amended Ch. 675, Stats. 1981. Effective January 1, 1982.

### ***Commercial Vehicle: Inspection Stickers***

2813.5. The commissioner shall have exclusive authority in the issuance

of stickers as evidence that commercial vehicles have been inspected pursuant to Section 2813 and have been found to be in compliance with minimum safety standards established by the department. The commissioner may make and enforce regulations with respect to the issuance and display of the stickers upon commercial vehicles.

(b) It is unlawful for any unauthorized person, company, corporation, or public or private entity to possess, issue, or display upon a vehicle an unauthorized commercial vehicle safety inspection sticker or a sticker that is either a facsimile of, or is substantially similar to, that issued by the commissioner.

(c) Any violation of subdivision (b) is a misdemeanor.

Added Ch. 747, Stats. 1987. Effective January 1, 1988.

### ***Roadside Inspection--Smog Control Stickers***

2814. Every driver of a passenger vehicle shall stop and submit the vehicle to an inspection of the mechanical condition and equipment of the vehicle at any location where members of the California Highway Patrol are conducting tests and inspections of passenger vehicles and when signs are displayed requiring such stop.

The Commissioner of the California Highway Patrol may make and enforce regulations with respect to the issuance of stickers or other devices to be displayed upon passenger vehicles as evidence that the vehicles have been inspected and have been found to be in safe mechanical condition and equipped as required by this code and equipped with certified motor vehicle pollution control devices as required by Part 5 (commencing with Section 43000) of Division 26 of the Health and Safety Code which are correctly installed and in operating condition. Any sticker so issued shall be placed on the windshield within a seven-inch square as provided in Section 26708.

If, upon such an inspection of a passenger vehicle, it is found to be in unsafe mechanical condition or not equipped as required by this code and the provisions of Part 5 (commencing with Section 43000) of Division 26 of the Health and Safety Code, the provisions of Article 2 (commencing with Section 40150) of Chapter 1 of Division 17 of this code, shall apply.

The provisions of this section relating to motor vehicle pollution control devices apply to vehicles of the United States or its agencies, to the extent authorized by federal law.

Amended Ch. 957, Stats. 1975. Effective January 1, 1976.

### ***Disregard of Nonstudent Crossing Guard***

2815. Any person who shall disregard any traffic signal or direction given by a nonstudent school crossing guard, appointed pursuant to Section 21100, or authorized by any city police department, any board of supervisors of a county, or the Department of the California Highway Patrol, when the guard is wearing the official insignia of such a school crossing guard, and when in the course of the guard's duties the guard is protecting any person in crossing a street or highway in the vicinity of a school or while returning thereafter to a place of safety, shall be guilty of an infraction and subject to the penalties provided in Section 42001.1.

Amended Ch. 69, Stats. 1984. Effective April 5, 1984.

### ***Discharge of Children from Youth Bus***

2816. It is unlawful to load or discharge children onto or from a youth bus upon a highway at any location where the children must cross the highway upon which the youth bus is stopped, unless traffic is controlled by a traffic officer or an official traffic control signal.

Added Ch. 383, Stats. 1982. Effective July 4, 1982. Supersedes Ch. 133.

***Disregard of Peace Officer: Funeral Procession***

2817. Any person who disregards any traffic signal or direction given by a peace officer authorized pursuant to subdivision (d) of Section 70 of the Penal Code to escort funeral processions, if the peace officer is in a peace officer's uniform, and is in the process of escorting a funeral procession, shall be guilty of an infraction and subject to the penalties provided in subdivision (a) of Section 42001.

Added Ch. 1108, Stats. 1984. Effective January 1, 1985.

***Crossing Flare or Cone Patterns***

2818. It is unlawful to traverse a flare pattern, cone pattern, or combination thereof, provided for the regulation of traffic, or provided in any situation where public safety personnel are engaged in traffic control or emergency scene management.

Added Ch. 843, Stats. 1988. Effective January 1, 1989.

**CHAPTER 5. CALIFORNIA TRAFFIC SAFETY PROGRAM**

(Added Ch. 1492, Stats. 1967. Effective August 28, 1967.)

**Article 1. Traffic Safety**

(Added Ch. 547, Stats. 1985. Effective January 1, 1986.)

***Scope of Program***

2900. There is in this state, the California Traffic Safety Program, which consists of a comprehensive plan in conformity with the laws of this state to reduce traffic accidents and deaths, injuries, and property damage resulting from accidents. The program shall include, but not be limited to, provisions to improve driver performance, including, but not limited to, driver education, driver testing to determine proficiency to operate motor vehicles, and driver examinations and driver licensing, and provisions to improve bicyclist and pedestrian education and performance. In addition, the program shall include, but not be limited to, provisions for an effective record system of accidents, including injuries and deaths resulting from accidents; accident investigations to determine the probable causes of accidents, injuries, and deaths; vehicle registration, operation, and inspection; highway design and maintenance including lighting, markings, and surface treatment; traffic control; vehicle codes and laws; surveillance of traffic for detection and correction of high or potentially high accident locations; and emergency services.

Amended Sec. 3, Ch. 674, Stats. 1996. Effective January 1, 1997.

Amended Sec. 1, Ch. 181, Stats. 2000. Effective January 1, 2001.

***Preparation, Administration, Approval of Program***

2901. The Governor may appoint a highway safety representative who shall serve in the Business, Transportation and Housing Agency and who shall, in consultation with the Governor and Secretary of the Business, Transportation and Housing Agency, prepare the California Traffic Safety Program. The Governor is responsible for the administration of the program, and has final approval of all phases of the program, and may take all action necessary to secure the full benefits available to the program under the Federal Highway Safety Act of 1966, and any amendments thereto. The highway safety representative serves at the pleasure of the secretary.

Amended Ch. 144, Stats. 1984. Effective January 1, 1985.

***Delegation of Power***

2902. To the maximum extent permitted by federal law and regulations and the laws of this state, the Governor may delegate to the Secretary of the Business and Transportation Agency and the highway safety representative



any power or authority necessary to administer the program, and the secretary and the representative may exercise such power or authority once delegated.

Amended Ch. 652, Stats. 1978. Effective January 1, 1979.

### ***Advisory Committee***

2903. The Governor may establish an Advisory Committee on the California Traffic Safety Program which shall consist of various officials of state and local government and other persons who are interested in the establishment of a comprehensive program of traffic safety in this state including, but not limited to, representatives of agriculture, railroads, the Institute of Transportation and Traffic Engineering of the University of California, the motor vehicle manufacturing industry, the automobile aftermarket equipment servicing and manufacturing industry, automobile dealers, the trucking industry, labor, motor vehicle user organizations, and traffic safety organizations.

Added Ch. 1492, Stats. 1967. Effective August 28, 1967.

### ***Local Programs***

2904. The California Traffic Safety Program shall include a local traffic safety program designed to encourage the political subdivisions of this state to establish traffic safety programs consistent with the objectives of the California Traffic Safety Program.

Added Ch. 1492, Stats. 1967. Effective August 28, 1967.

### ***Report to Legislature***

2905. On or before the fifth legislative day of the 1968 legislative session and each year thereafter, the Governor shall submit a report to the Legislature through such interim committee or committees as may be designated by legislative resolution. Such report shall include a detailed presentation of the California Traffic Safety Program, a statement concerning the progress made in implementing the program and recommendations concerning possible legislative action deemed necessary or desirable to implement the program.

Added Ch. 1492, Stats. 1967. Effective August 28, 1967.

### ***Fund Created***

2906. The California Traffic Safety Program Fund is hereby created in the State Treasury to consist of the funds referred to in Section 2907.

Added Ch. 1492, Stats. 1967. Effective August 28, 1967.

### ***Funds Appropriated***

2907. Any funds which are appropriated by Congress for the purposes of carrying out Section 402 of Title 23, United States Code (P.L. 89-564; 80 Stats. 731) and which are apportioned to this state by the Secretary of Commerce pursuant to Section 402 of Title 23, United States Code (P.L. 89-564; 80 Stats. 731) are continuously appropriated for the purposes and uses of the California Traffic Safety Program.

Added Ch. 1492, Stats. 1967. Effective August 28, 1967.

### ***Governor's Apportionment of Funds***

2908. The Governor shall apportion any funds contained in the California Traffic Safety Program Fund among the various state agencies and local political subdivisions as shall effectuate the purposes of the program, and, in accordance with any federal formula for apportionment or other federal requirements as contained in federal enactments, regulations, or standards promulgated by the Secretary of Commerce.

Added Ch. 1492, Stats. 1967. Effective August 28, 1967.

***Local Participation with Governor's Approval***

2909. Any local political subdivision of this state, including, but not limited to, a city, a county, a city and county, a district, or a special district, is authorized to participate in a local traffic safety program within its jurisdiction if such local program is approved by the Governor; provided, however, that any local political subdivision may participate in a traffic safety program other than that promulgated pursuant to the federal Highway Safety Act of 1966.

Added Ch. 1492, Stats. 1967. Effective August 28, 1967.

***Support of Local Program***

2910. Such local political subdivision may use, in implementing its local traffic safety program, any funds which are apportioned to it from the California Traffic Safety Program Fund by the Governor pursuant to Section 2908.

Added Ch. 1492, Stats. 1967. Effective August 28, 1967.

**Article 2. Motorcycle Safety**

(Added Ch. 547, Stats 1985. Effective January 1, 1996.)

***Definitions***

2930. (a) "Commissioner" means the Commissioner of the California Highway Patrol.

(b) "Fund" means the California Motorcyclist Safety Fund.

(c) "Program" means the motorcyclist safety program established in this article.

Added Ch. 547, Stats 1985. Effective January 1, 1996.

***Motorcyclist Safety Program***

2931. A motorcyclist safety program is hereby established in the Department of the California Highway Patrol, to be administered by the commissioner.

Added Ch. 547, Stats 1985. Effective January 1, 1996.

***Commissioner's Duties***

2932. The commissioner may, through contracts with other public agencies or with private entities, do all of the following:

(a) Provide financial or other support to projects aimed at enhancing motorcycle operation or safety, including, but not limited to, rider training programs. The rider training programs shall comply with criteria which the commissioner, in consultation with other state agencies and national motorcycle safety organizations, may adopt to provide validated rider safety training programs in the state.

(b) Sponsor and coordinate efforts aimed at increasing motorists awareness of motorcyclists.

(c) Sponsor research into effective communication techniques to reach all highway users on matters of motorcyclist safety.

(d) Establish an advisory committee of persons from other state and local agencies with an interest in motorcycle safety; persons from the motorcycle industry; motorcycle safety organizations; motorcycle enthusiast organizations; and others with an interest in motorcycle safety, to assist in the establishment of a comprehensive program of motorcycle safety.

(e) Adopt standards for course content, contact hours, curriculum, instructor training and testing, and instructional quality control, and setting forth a maximum amount for course fees for the novice rider training course specified in subdivision (g) of Section 12804.9.

Amended Ch. 789, Stats. 1993. Effective January 1, 1994.

***Program Services: Funding***

2933. The commissioner shall not directly manage or provide program services. Any program service financed under this Article shall be provided under contractual arrangements or grant funding. All public agencies assisting or providing program services under this Article shall be fully reimbursed for their costs by the commissioner. The commissioner shall monitor and evaluate any contracts or grants executed pursuant to this Article to ensure that the provisions of the contracts or grants are adhered to by the recipients.

Added Ch. 547, Stats 1985. Effective January 1, 1996.

***California Motorcyclist Safety Fund***

2934. (a) The California Motorcyclist Safety Fund is hereby created in the State Treasury. The money in the fund is available, when appropriated by the Legislature, to fund programs established pursuant to this Article and to defray related costs incurred. Moneys in the fund are and shall be held as trust funds for the exclusive trust purposes specified in this article.

(b) The commissioner shall not in any way encumber moneys in the fund beyond that amount which is actually available in the fund at the time of encumbrance, and shall not in any manner pledge or encumber future revenues to accrue to the fund from any source.

Added Ch. 547, Stats 1985. Effective January 1, 1996.

***Additional Motorcycle Registration Fees***

2935. The Department of Motor Vehicles shall, in addition to other fees, collect a fee of two dollars (\$2) upon initial registration and renewal of registration of every motorcycle subject to registration fees. These additional fees shall be deposited in the fund.

Added Ch. 547, Stats 1985. Effective January 1, 1996.

**CHAPTER 6. NEW MOTOR VEHICLE BOARD**

(Amended Ch. 545, Stats. 1974. Effective January 1, 1975.)

**Article 1. Organization of Board*****Board in Department***

3000. There is in the Department of Motor Vehicles a New Motor Vehicle Board, which consists of nine members.

Amended Ch. 996, Stats. 1973. Operative July 1, 1974.

***Membership of Board***

3001. Four of the appointive members of the board shall be new motor vehicle dealers as defined in Section 426 who have engaged for a period of not less than five years preceding their appointment in activities regulated by Article 1 (commencing with Section 11700) of Chapter 4 of Division 5. These members shall be appointed by the Governor.

Each of the five remaining appointive members shall be a public member who is not a licentiate under Article 1 (commencing with Section 11700) or 2 (commencing with Section 11800) of Chapter 4 of Division 5 or an employee of such licentiate at the time of such appointment and one of these five appointive members shall have been admitted to practice law in the state for at least 10 years immediately preceding his appointment. One public member shall be appointed by the Senate Rules Committee, one by the Speaker of the Assembly, and three by the Governor.

Each member shall be of good moral character.

The provisions of this section shall not apply to a dealer who deals

exclusively in motorcycles.

Amended Ch. 1584, Stats. 1982. Effective January 1, 1983.

### ***Effectiveness of Appointments***

3002. The appointments of the appointive members shall be made effective as of the effective date of this article.

Added Ch. 1397, Stats. 1967. Effective November 8, 1967.

### ***Terms of Members: Vacancies***

3003. Each appointive member of the board shall be appointed for a term of four years and shall hold office until the appointment and qualification of his successor or until one year has elapsed since the expiration of the time for which he or she was appointed, whichever occurs first.

The terms of the members of the board first appointed shall expire as follows: one public member and one new motor vehicle dealer member, January 15, 1969; two public members and one new motor vehicle dealer member, January 15, 1970; two public members and two new motor vehicle dealer members, January 15, 1971. The terms shall thereupon expire in the same relative order.

Vacancies occurring shall be filled by appointment for the unexpired term.

The provisions of this section shall not apply to a dealer who deals exclusively in motorcycles.

Amended Ch. 1144, Stats. 1983. Effective September 27, 1983.

### ***Oath of Office***

3004. Members of the board shall take an oath of office as provided in the Constitution and the Government Code.

Added Ch. 1397, Stats. 1967. Effective November 8, 1967.

### ***Removal of Members***

3005. The appointive authority has the power to remove from office at any time, any member of the board appointed by such appointing authority for continued neglect of duties required by law, or for incompetence, or unprofessional or dishonorable conduct. Nothing in this section shall be construed as a limitation or restriction on the power of the appointing authority, conferred by any other provision of law, to remove any member of the board.

Added Ch. 1397, Stats. 1967. Effective November 8, 1967.

### ***Board to Elect President***

3006. The board shall organize and elect a president from among its members for a term of one year at the first meeting of each year. The newly elected president shall assume his duties at the conclusion of the meeting at which he was elected. Reelection to office during membership is unrestricted.

Added Ch. 1397, Stats. 1967. Effective November 8, 1967.

### ***Frequency of Meetings***

3007. The board shall meet at least twice during each calendar year.

Special meetings may be called at any time by the president or by any five members of the board upon notice for such time and in such manner as the board may provide.

Added Ch. 1397, Stats. 1967. Effective November 8, 1967.

### ***Meetings: Open and Executive***

3008. (a) All meetings of the board shall be open and public, and all persons shall be permitted to attend any meeting of the board, except that the board may hold executive sessions to deliberate on the decision to be reached upon the evidence introduced in a proceeding conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of

Division 3 of Title 2 of the Government Code.

(b) At all meetings of the board, open or executive, involving an appeal from a decision of the Director of Motor Vehicles as hereinafter provided for, the director or his authorized representative may attend, present the position of the department and thereafter shall absent himself from any executive session at the request of any member of the board.

(c) Within the limitations of its powers and authority as herein conferred, and in the event of disagreement between the board and the director regarding the decision to be reached as herein provided, the decision of the board shall be final.

Added Ch. 1397, Stats. 1967. Effective November 8, 1967.

### ***Quorum Defined***

3010. Five members of the board shall constitute a quorum for the transaction of business, for the performance of any duty or the exercise of any power or authority of the board, except that three members of the board, who are not new motor vehicle dealers, shall constitute a quorum for the purposes of Article 4 (commencing with Section 3060) and the consideration of a petition pursuant to subdivision (c) of Section 3050 that involves a dispute between a franchisee and franchisor.

Amended Sec. 1, Ch. 637, Stats. 2000. Effective January 1, 2001.

### ***Vacancy on the Board***

3011. A vacancy on the board shall not impair the power of the remaining members to perform all duties and exercise all powers of the board, providing the members remaining constitute a quorum.

Added Ch. 1397, Stats. 1967. Effective November 8, 1967.

### ***Compensation***

3012. Each member of the board shall receive a per diem of one hundred dollars (\$100) for each day actually spent in the discharge of official duties, and he shall be reimbursed for his traveling and other expenses necessarily incurred in the performance of his duties, which per diem and reimbursement shall be wholly defrayed from funds that shall be provided in the annual budget of the department.

Amended Ch. 1144, Stats. 1983. Effective September 27, 1983.

### ***Board's Seal***

3013. The board shall adopt a seal and such other device as the members may desire thereon, by which they shall authenticate all papers and documents under their control.

Copies of all records and papers in the board's office shall be received in evidence in all cases when certified under the hand and seal of the board, equally and with like effect as the originals.

Added Ch. 1397, Stats. 1967. Effective November 8, 1967.

### ***Department Support***

3014. The department shall provide the board with the services, as secretary, of a qualified, trained person, who shall, subject to civil service requirements, devote as much time as may be necessary to discharge the functions of the board as herein provided. In addition, the board may appoint an assistant secretary, who shall be exempt from civil service. The department, in addition, shall provide the board with the necessary personnel, office space, equipment, supplies, and services which, in the opinion of the board, may be necessary to administer this chapter. However, the board may contract with the department or another state agency for office space, equipment, supplies, and services, as determined by the board

to be appropriate, for the administration of this chapter.

Amended Ch. 247, Stats. 1984. Effective January 1, 1985.

### ***Headquarters Office—Meeting Rooms***

3015. In addition to the office of the secretary in Sacramento, the department shall, as the need therefor occurs, secure adequate rooms for the meetings of the board in Los Angeles, San Francisco, Sacramento, or such other locations in the state as may be required in the discretion of the board, to administer this chapter.

Added Ch. 1397, Stats. 1967. Effective November 8, 1967.

### ***Fees***

3016. (a) New motor vehicle dealers and other licensees under the jurisdiction of the board shall be charged fees sufficient to fully fund the activities of the board other than those conducted pursuant to Section 472.5 of the Business and Professions Code. The board may recover the direct cost of the activities required by Section 472.5 of the Business and Professions Code by charging the Department of Consumer Affairs a fee which shall be paid by the Department of Consumer Affairs with funds appropriated from the Certification Account in the Consumer Affairs Fund. All fees shall be deposited, and held separate from other moneys, in the Motor Vehicle Account in the State Transportation Fund, and shall not be transferred to the State Highway Account pursuant to Section 42273.

(b) The fees shall be available, when appropriated, exclusively to fund the activities of the board. If, at the conclusion of any fiscal year, the amount of fees collected exceeds the amount of expenditures for this purpose during the fiscal year, the surplus shall be carried over into the succeeding fiscal year.

Amended Sec. 13, Ch. 1088, Stats. 1996. Effective September 30, 1996.

Amended Sec. 143, Ch. 17, Stats. 1997. Effective January 1, 1998.

## **Article 2. Powers and Duties of Board**

### ***Powers and Duties, Generally***

3050. The board shall do all of the following:

(a) Adopt rules and regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code governing those matters that are specifically committed to its jurisdiction.

(b) Hear and determine, within the limitations and in accordance with the procedure provided, an appeal presented by an applicant for, or holder of, a license as a new motor vehicle dealer, manufacturer, manufacturer branch, distributor, distributor branch, or representative when the applicant or licensee submits an appeal provided for in this chapter from a decision arising out of the department.

(c) Consider any matter concerning the activities or practices of any person applying for or holding a license as a new motor vehicle dealer, manufacturer, manufacturer branch, distributor, distributor branch, or representative pursuant to Chapter 4 (commencing with Section 11700) of Division 5 submitted by any person. A member of the board who is a new motor vehicle dealer may not participate in, hear, comment, advise other members upon, or decide any matter considered by the board pursuant to this subdivision that involves a dispute between a franchisee and franchisor. After that consideration, the board may do any one or any combination of the following:

(1) Direct the department to conduct investigation of matters that the board deems reasonable, and make a written report on the results of the investigation to the board within the time specified by the board.

(2) Undertake to mediate, arbitrate, or otherwise resolve any honest difference of opinion or viewpoint existing between any member of the public and any new motor vehicle dealer, manufacturer, manufacturer branch, distributor branch, or representative.

(3) Order the department to exercise any and all authority or power that the department may have with respect to the issuance, renewal, refusal to renew, suspension, or revocation of the license of any new motor vehicle dealer, manufacturer, manufacturer branch, distributor, distributor branch, or representative as that license is required under Chapter 4 (commencing with Section 11700) of Division 5.

(d) Hear and decide, within the limitations and in accordance with the procedure provided, a protest presented by a franchisee pursuant to Section 3060, 3062, 3064, 3065, or 3065.1. A member of the board who is a new motor vehicle dealer may not participate in, hear, comment, advise other members upon, or decide, any matter involving a protest filed pursuant to Article 4 (commencing with Section 3060), unless all parties to the protest stipulate otherwise.

(e) Notwithstanding subdivisions (c) and (d), the courts have jurisdiction over all common law and statutory claims originally cognizable in the courts. For those claims, a party may initiate an action directly in any court of competent jurisdiction.

Amended Sec. 1, Ch. 356, Stats. 1997. Effective January 1, 1998.

### ***Oaths, Depositions, Certification to Official Acts, and Issuance of Subpoenas***

3050.1. (a) In any proceeding, hearing, or in the discharge of any duties imposed under this chapter, the board, its secretary, or a hearing officer designated by the board may administer oaths, take depositions, certify to official acts, and issue subpoenas to compel attendance of witnesses and the production of books, records, papers, and other documents in any part of the state.

(b) For purposes of discovery, the board or its secretary may, if deemed appropriate and proper under the circumstances, authorize the parties to engage in such those discovery procedures as are provided for in civil actions in Article 3 (commencing with Section 2016) of Chapter 3 of Title 3 of Part 4 of the Code of Civil Procedure, excepting the provisions of Section 2030 of that code. Discovery shall be completed no later than 15 days prior to the commencement of the proceeding or hearing before the board. This subdivision shall apply only to those proceedings or hearings involving a petition or protest filed pursuant to subdivision (c) or (d) of Section 3050. The board, its secretary, or a hearing officer designated by the board may issue subpoenas to compel attendance at depositions of persons having knowledge of the acts, omissions or events which are the basis for the proceedings, as well as the production of books, records, papers and other documents.

Amended Sec. 2, Ch. 637, Stats. 2000. Effective January 1, 2001.

### ***Enforcement of Subpoenas and Discovery***

3050.2. (a) Obedience to subpoenas issued to compel attendance of witnesses, or the production of books, records, papers, and other documents at the proceeding or hearing, may be enforced by application to the superior court as set forth in Article 2 (commencing with Section 11180) of Chapter 2 of Part 1 of Division 3 of Title 2 of the Government Code.

(b) Compliance with discovery procedures authorized pursuant to subdivision (b) of Section 3050.1 may be enforced by application to the secretary of the board. The secretary may, at the direction of the board, upon a showing of failure to comply with authorized discovery without substantial

justification for that failure, dismiss the protest or petition or suspend the proceedings pending compliance. The secretary may, at the direction of the board, upon a failure to comply with authorized discovery without substantial justification for that failure, require payment of costs incurred by the board, as well as attorney's fees and costs of the party who successfully makes or opposes a motion to compel enforcement of discovery. Nothing in this section precludes the secretary from making application to the superior court to enforce obedience to subpoenas or compliance with other discovery procedures authorized pursuant to subdivision (b) of Section 3050.1.

Amended Ch. 1325, Stats. 1990. Effective September 26, 1990.

### ***Witness Fees and the Mileage Allowance***

3050.3. Each witness, other than an officer or employee of the state or of a political subdivision of the state, who appears by order of the board or its secretary, shall receive for his attendance the same fees and all witnesses shall receive the same mileage allowed by law to witnesses in civil cases. The amount shall be paid by the party at whose request the witness is subpoenaed. The mileage and fees, if any, of a witness subpoenaed by the board or its secretary, but not at the request of a party, shall be paid from the funds provided for the use of the board in the same manner that other expenses of the board are paid.

Added Ch. 1210, Stats. 1972. Effective March 7, 1973.

### ***Mandatory Settlement Conference***

3050.4. In any protest or petition before the board, the board, its secretary, or a hearing officer designated by the board or its secretary, may order a mandatory settlement conference. The failure of a party to appear, to be prepared, or to have authority to settle the matter may result in any or all of the following:

(a) The board, its secretary, or a hearing officer designated by the board or its secretary, may suspend all proceedings before the board in the matter until compliance.

(b) The board, its secretary, or a hearing officer designated by the board or its secretary, may dismiss the proceedings or any part thereof before the board with or without prejudice.

(c) The board, its secretary, or a hearing officer designated by the board or its secretary, may require all the board's costs to be paid by the party at fault.

(d) The board, its secretary, or a hearing officer designated by the board or its secretary, may deem that the party at fault has abandoned the matter.

Added Ch. 1144, Stats. 1983. Effective September 27, 1983.

### ***Fees for Appeal, Protest or Petition***

3050.5. Pursuant to Section 3016, the board shall establish a fee for the initial filing by any party in regard to any appeal, protest, or petition filed pursuant to this chapter.

Amended Ch. 1201, Stats. 1985. Effective September 28, 1985.

### ***Cost Assessment***

3050.6. The board or its secretary may, in the event of a granting of a continuance of a scheduled matter, assess costs of the board upon the party receiving the continuance.

Added Ch. 1144, Stats. 1983. Effective September 27, 1983.

### ***Stipulated Decisions and Orders***

3050.7. (a) The board may adopt stipulated decisions and orders, without a hearing pursuant to Section 3066, to resolve one or more issues raised by a protest or petition filed with the board. Whenever the parties to



any protest or petition submit a proposed stipulated decision and proposed order of the board, a copy of the proposed stipulated decision and order shall be transmitted by the secretary of the board to each member of the board. The proposed stipulated decision and order shall be deemed to be adopted by the board unless any member of the board notifies the secretary of the board of an objection thereto within 10 days after that board member has received a copy of the proposed stipulated decision and order.

(b) If the board adopts a stipulated decision and order to resolve a protest filed pursuant to Section 3060 in which the parties stipulate that good cause exists for the termination of the franchise of the protestant, and the order provides for a conditional or unconditional termination of the franchise of the protestant, subdivision (b) of Section 3060, which requires a hearing to determine whether good cause exists for termination of the franchise, is inapplicable to the proceedings. If the stipulated decision and order provides for an unconditional termination of the franchise, the franchise may be terminated without any further proceedings by the board. If the stipulated decision and order provides for the termination of the franchise, conditioned upon the failure of any party to comply with any specified conditions, the franchise may be terminated upon a determination, according to the terms of the stipulated decision and order, that the conditions have not been met. If the stipulated decision and order provides for the termination of the franchise conditioned upon the occurrence of any specified conditions, the franchise may be terminated upon a determination, according to the terms of the stipulated decision and order, that the stipulated conditions have occurred.

Amended Ch. 1325, Stats. 1990. Effective September 26, 1990.

### ***Application of Chapter***

3051. This chapter does not apply to any person licensed as a transporter under Article1 (commencing with Section 11700) or as a salesperson under Article2 (commencing with Section 11800) of Chapter 4 of Division 5, or to any licensee who is not a new motor vehicle dealer, motor vehicle manufacturer, manufacturer branch, new motor vehicle distributor, distributor branch or representative. This chapter does not apply to transactions involving “mobilehomes,” as defined in Section 18008 of the Health and Safety Code, “recreational vehicles,” as defined in Section 18010 of the Health and Safety Code, “commercial coaches,” as defined in Section 18001.8 of the Health and Safety Code, or off-highway motor vehicles subject to identification, as defined in Section 38012, except off-highway motorcycles, as defined in Section 436, and all-terrain vehicles, as defined in Section 111. Except as otherwise provided in this chapter, this chapter applies to a new motor vehicle dealer as defined in Section 426, a vehicle manufacturer as defined in Section 672, a manufacturer branch as defined in Section 389, a distributor as defined in Section 296, a distributor branch as defined in Section 297, a representative as defined in Section 512, or an applicant therefor.

Amended Ch. 594, Stats. 1993. Effective January 1, 1994.

Amended Sec. 3, Ch. 637, Stats. 2000. Effective January 1, 2001.

### **Article 3. Appeals From Decisions of the Department**

#### ***Form, Filing, Support of Appeal: Effectiveness of Decision***

3052. (a) On or before the 10th day after the last day on which reconsideration of a final decision of the department can be ordered, the respondent may file an appeal with the secretary of the board. The appeal shall be in writing and shall state the grounds therefor. A copy of the appeal

shall be mailed by the appellant to the department which shall thereafter be considered in all respects as a party to the appeal. The right to appeal is not affected by failure to seek reconsideration before the department.

(b) An appeal is considered to be filed on the date it is received in the office of the secretary of the board, except that an appeal mailed to the secretary by means of registered mail is considered to be filed with the secretary on the postmark date.

(c) The appeal shall be accompanied by evidence that the appellant has requested the administrative record of the department and advanced the cost of preparation of that record. The complete administrative record includes the pleadings, all notices and orders issued by the department, any proposed decision by a hearing officer, the exhibits admitted or rejected, the written evidence and any other papers in the case. All or those parts of the administrative record requested by the appellant may be filed with the appeal together with the appellant's points and authorities. If the board orders the filing of additional parts of the administrative record, the board may order prior payment by the appellant of the cost of providing those additional parts.

(d) Except as provided in subdivisions (e) and (f), no decision of the department shall become effective during the period an appeal may be filed, and the filing of an appeal shall stay the decision of the department until a final order is made by the board.

(e) When a decision has ordered revocation of a dealer's license, the department may, on or before the last day upon which an appeal may be filed with the board, petition the board to order the decision of the department into effect.

(f) With respect to the department's petition filed pursuant to subdivision (e), the department shall have the burden of proof. The board shall act upon the petition within 14 days or prior to the effective date of the department's decision, whichever is later. The board may order oral argument on the petition before the board. Oral argument by telephone conference call with a quorum of the board members present, either in person or by telephone, is permitted.

Amended Ch. 1563, Stats. 1990. Effective January 1, 1991.

### ***Determination of Appeal***

3053. The board shall determine the appeal upon the administrative record of the department, any evidence adduced at any hearing of the board, and upon any briefs filed by the parties. If any party to the appeal requests the right to appear before the board, the board shall set a time and place for such hearing, the production of any relevant evidence and argument.

Added Ch. 1397, Stats. 1967. Effective November 8, 1967.

### ***Amendment or Reversal of Department's Decision***

3054. The board shall have the power to reverse or amend the decision of the department if it determines that any of the following exist:

(a) The department has proceeded without or in excess of its jurisdiction.

(b) The department has proceeded in a manner contrary to the law.

(c) The decision is not supported by the findings.

(d) The findings are not supported by the weight of the evidence in the light of the whole record reviewed in its entirety, including any and all relevant evidence adduced at any hearing of the board.

(e) There is relevant evidence, which in the exercise of reasonable diligence, could not have been produced or which was improperly excluded at the hearing.

(f) The determination or penalty, as provided in the decision of the

department is not commensurate with the findings.

Amended Ch. 819, Stats. 1970. Effective November 23, 1970.

### ***Power Relative to Penalty***

3055. The board shall also have the power to amend, modify, or reverse the penalty imposed by the department.

Added Ch. 1397, Stats. 1967. Effective November 8, 1967.

### ***Procedure Following Reversal***

3056. When the order reverses the decision of the department, the board may direct the reconsideration of the matter in the light of its order and may direct the department to take such further action as is specially enjoined upon it by law. In all cases the board shall enter its order within 60 days after the filing of the appeal, except in the case of unavoidable delay in supplying the administrative record, in which event the board shall make its final order within 60 days after receipt thereof.

Added Ch. 1397, Stats. 1967. Effective November 8, 1967.

### ***Effective Date of Orders of Board: Final Orders***

3057. The board shall fix an effective date for its orders not more than 30 days from the day the order is served upon the parties or remand the case to the department for fixing an effective date. A final order of the board shall be in writing and copies thereof shall be delivered to the parties personally or sent them by registered mail. The order shall be final upon its delivery or mailing and no reconsideration or rehearing shall be permitted.

Amended Ch. 819, Stats. 1970. Effective November 23, 1970.

### ***Judicial Review Option***

3058. Either party may seek judicial review of final orders of the board. Time for filing an action for such review shall not be more than 30 days from the date on which the final order of the board is delivered to the parties personally or is sent them by registered mail.

Added Ch. 1397, Stats. 1967. Effective November 8, 1967.

## **Article 4. Hearings on Franchise Modification, Replacement, Termination, Refusal to Continue, Delivery and Preparation Obligations, and Warranty Reimbursement**

(Amended Ch. 384, Stats. 1974. Operative July 5, 1975)

### ***Termination of Franchise***

3060. (a) Notwithstanding Section 20999.1 of the Business and Professions Code or the terms of any franchise, no franchisor shall terminate or refuse to continue any existing franchise unless all of the following conditions are met:

(1) The franchisee and the board have received written notice from the franchisor as follows:

(A) Sixty days before the effective date thereof setting forth the specific grounds for termination or refusal to continue.

(B) Fifteen days before the effective date thereof setting forth the specific grounds with respect to any of the following:

(i) Transfer of any ownership or interest in the franchise without the consent of the franchisor, which consent shall not be unreasonably withheld.

(ii) Misrepresentation by the franchisee in applying for the franchise.

(iii) Insolvency of the franchisee, or filing of any petition by or against the franchisee under any bankruptcy or receivership law.

(iv) Any unfair business practice after written warning thereof.

(v) Failure of the motor vehicle dealer to conduct its customary sales and service operations during its customary hours of business for seven

consecutive business days, giving rise to a good faith belief on the part of the franchisor that the motor vehicle dealer is in fact going out of business, except for circumstances beyond the direct control of the motor vehicle dealer or by order of the department.

(C) The written notice shall contain, on the first page thereof in at least 12-point bold type and circumscribed by a line to segregate it from the rest of the text, one of the following statements, whichever is applicable:

[To be inserted when a 60-day notice of termination is given.]

“NOTICE TO DEALER: You have the right to file a protest with the NEW MOTOR VEHICLE BOARD in Sacramento and have a hearing in which you may protest the termination of your franchise under provisions of the California Vehicle Code. You must file your protest with the board within 30 calendar days after receiving this notice or within 30 days after the end of any appeal procedure provided by the franchisor or your protest right will be waived.”

[To be inserted when a 15-day notice of termination is given.]

“NOTICE TO DEALER: You have the right to file a protest with the NEW MOTOR VEHICLE BOARD in Sacramento and have a hearing in which you may protest the termination of your franchise under provisions of the California Vehicle Code. You must file your protest with the board within 10 calendar days after receiving this notice or within 10 days after the end of any appeal procedure provided by the franchisor or your protest right will be waived.”

(2) Except as provided in Section 3050.7, the board finds that there is good cause for termination or refusal to continue, following a hearing called pursuant to Section 3066. The franchisee may file a protest with the board within 30 days after receiving a 60-day notice, satisfying the requirements of this section, or within 30 days after the end of any appeal procedure provided by the franchisor, or within 10 days after receiving a 15-day notice, satisfying the requirements of this section, or within 10 days after the end of any appeal procedure provided by the franchisor. When a protest is filed, the board shall advise the franchisor that a timely protest has been filed, that a hearing is required pursuant to Section 3066, and that the franchisor may not terminate or refuse to continue until the board makes its findings.

(3) The franchisor has received the written consent of the franchisee, or the appropriate period for filing a protest has elapsed.

(b) (1) Notwithstanding Section 20999.1 of the Business and Professions Code or the terms of any franchise, no franchisor shall modify or replace a franchise with a succeeding franchise if the modification or replacement would substantially affect the franchisee's sales or service obligations or investment, unless the franchisor has first given the board and each affected franchisee written notice thereof at least 60 days in advance of the modification or replacement. Within 30 days of receipt of the notice, satisfying the requirement of this section, or within 30 days after the end of any appeal procedure provided by the franchisor, a franchisee may file a protest with the board and the modification or replacement does not become effective until there is a finding by the board that there is good cause for the modification or replacement. If, however, a replacement franchise is the successor franchise to an expiring or expired term franchise, the prior franchise shall continue in effect until resolution of the protest by the board. In the event of multiple protests, hearings shall be consolidated to expedite the disposition of the issue.

(2) The written notice shall contain, on the first page thereof in at least 12-point bold type and circumscribed by a line to segregate it from the rest of the text, the following statement:

“NOTICE TO DEALER: Your franchise agreement is being modified or replaced. If the modification or replacement will substantially affect your sales or service obligations or investment, you have the right to file a protest with the NEW MOTOR VEHICLE BOARD in Sacramento and have a hearing in which you may protest the proposed modification or replacement of your franchise under provisions of the California Vehicle Code. You must file your protest with the board within 30 calendar days of your receipt of this notice or within 30 days after the end of any appeal procedure provided by the franchisor or your protest rights will be waived.”

Amended Sec. 3, Ch. 662, Stats. 1998. Effective January 1, 1999.

### **Good Cause**

3061. In determining whether good cause has been established for modifying, replacing, terminating, or refusing to continue a franchise, the board shall take into consideration the existing circumstances, including, but not limited to, all of the following:

(a) Amount of business transacted by the franchisee, as compared to the business available to the franchisee.

(b) Investment necessarily made and obligations incurred by the franchisee to perform its part of the franchise.

(c) Permanency of the investment.

(d) Whether it is injurious or beneficial to the public welfare for the franchise to be modified or replaced or the business of the franchisee disrupted.

(e) Whether the franchisee has adequate motor vehicle sales and service facilities, equipment, vehicle parts, and qualified service personnel to reasonably provide for the needs of the consumers for the motor vehicles handled by the franchisee and has been and is rendering adequate services to the public.

(f) Whether the franchisee fails to fulfill the warranty obligations of the franchisor to be performed by the franchisee.

(g) Extent of franchisee's failure to comply with the terms of the franchise.

Amended Ch. 142, Stats. 1983. Effective January 1, 1984.

### **Establishing or Relocating Dealerships**

3062. (a) (1) Except as otherwise provided in subdivision (b), if a franchisor seeks to enter into a franchise establishing an additional motor vehicle dealership within a relevant market area where the same line-make is then represented, or seeks to relocate an existing motor vehicle dealership, the franchisor shall, in writing, first notify the board and each franchisee in that line-make in the relevant market area of the franchisor's intention to establish an additional dealership or to relocate an existing dealership within or into that market area. Within 20 days of receiving the notice, satisfying the requirements of this section, or within 20 days after the end of any appeal procedure provided by the franchisor, any franchisee required to be given the notice may file with the board a protest to the establishing or relocating of the dealership. If, within this time, a franchisee files with the board a request for additional time to file a protest, the board or its secretary, upon a showing of good cause, may grant an additional 10 days to file the protest. When such a protest is filed, the board shall inform the franchisor that a timely protest has been filed, that a hearing is required pursuant to Section 3066, and that the franchisor shall not establish or relocate the proposed dealership until the board has held a hearing as provided in Section 3066, nor thereafter, if the board has determined that there is good cause for not permitting the dealership. In the event of multiple protests, hearings

may be consolidated to expedite the disposition of the issue.

(2) If a franchisor seeks to enter into a franchise that authorizes a satellite warranty facility to be established at, or relocated to, a proposed location which is within two miles of any dealership of the same line-make, the franchisor shall first give notice in writing of the franchisor's intention to establish or relocate a satellite warranty facility at the proposed location to the board and each franchisee operating a dealership of the same line-make within two miles of the proposed location. Within 20 days of receiving the notice satisfying the requirements of this section, or within 20 days after the end of any appeal procedure provided by the franchisor, any franchisee required to be given the notice may file with the board a protest to the establishing or relocating of the satellite warranty facility. If, within this time, a franchisee files with the board a request for additional time to file a protest, the board or its secretary, upon a showing of good cause, may grant an additional 10 days to file the protest. When such a protest is filed, the board shall inform the franchisor that a timely protest has been filed, that a hearing is required pursuant to Section 3066, and that the franchisor shall not establish or relocate the proposed satellite warranty facility until the board has held a hearing as provided in Section 3066, nor thereafter, if the board has determined that there is good cause for not permitting the satellite warranty facility. In the event of multiple protests, hearings may be consolidated to expedite the disposition of the issue.

(3) The written notice shall contain, on the first page thereof in at least 12-point bold type and circumscribed by a line to segregate it from the rest of the text, the following statement:

"NOTICE TO DEALER: You have the right to file a protest with the NEW MOTOR VEHICLE BOARD in Sacramento and have a hearing on your protest under the terms of the California Vehicle Code if you oppose this action. You must file your protest with the board within 20 days of your receipt of this notice, or within 20 days after the end of any appeal procedure that is provided by us to you. If within this time you file with the board a request for additional time to file a protest, the board or its secretary, upon a showing of good cause, may grant you an additional 10 days to file the protest."

(b) Subdivision (a) does not apply to either of the following:

(1) The relocation of an existing dealership to any location that is both within the same city as, and is within one mile from, the existing dealership location.

(2) The establishment at any location that is both within the same city as, and is within one-quarter mile from, the location of a dealership of the same line-make that has been out of operation for less than 90 days.

(c) Subdivision (a) does not apply to any display of vehicles at a fair, exposition, or similar exhibit if no actual sales are made at the event and the display does not exceed 30 days. This subdivision shall not be construed to prohibit a new vehicle dealer from establishing a branch office for the purpose of selling vehicles at the fair, exposition, or similar exhibit, even though that the event is sponsored by a financial institution, as defined in Section 31041 of the Financial Code or by a financial institution and a licensed dealer. The establishment of these branch offices, however, shall be in accordance with subdivision (a) where applicable.

(d) For the purposes of this section, the reopening of a dealership that has not been in operation for one year or more shall be deemed the establishment of an additional motor vehicle dealership.

(e) As used in this section, the following definitions apply:

(1) "Motor vehicle dealership" or "dealership" means any authorized

facility at which a franchisee offers for sale or lease, displays for sale or lease, or sells or leases new motor vehicles.

(2) "Satellite warranty facility" means any facility operated by a franchisee where authorized warranty repairs and service are performed and the offer for sale or lease, the display for sale or lease, or the sale or lease of new motor vehicles is not authorized to take place.

Amended Sec. 4, Ch. 662, Stats. 1998. Effective January 1, 1999.

### **Good Cause**

3063. In determining whether good cause has been established for not entering into or relocating an additional franchise for the same line-make, the board shall take into consideration the existing circumstances, including, but not limited to, all of the following:

(a) Permanency of the investment.

(b) Effect on the retail motor vehicle business and the consuming public in the relevant market area.

(c) Whether it is injurious to the public welfare for an additional franchise to be established.

(d) Whether the franchisees of the same line-make in that relevant market area are providing adequate competition and convenient consumer care for the motor vehicles of the line-make in the market area which shall include the adequacy of motor vehicle sales and service facilities, equipment, supply of vehicle parts, and qualified service personnel.

(e) Whether the establishment of an additional franchise would increase competition and therefore be in the public interest.

Amended Ch. 142, Stats. 1983. Effective January 1, 1984.

### **Delivery and Preparation Obligations**

3064. (a) Every franchisor shall specify to its franchisees the delivery and preparation obligations of such franchisees prior to delivery of new motor vehicles to retail buyers. A copy of the delivery and preparation obligations, which shall constitute the franchisee's only responsibility for product liability between the franchisee and the franchisor but which shall not in any way affect the franchisee's responsibility for product liability between the purchaser and either the franchisee or the franchisor, and a schedule of compensation to be paid franchisees for the work and services they shall be required to perform in connection with such delivery and preparation obligations shall be filed with the board by franchisors, and shall constitute the compensation as set forth on such schedule. The schedule of compensation shall be reasonable, with the reasonableness thereof being subject to the approval of the board, providing a franchisee files a notice of protest with the board. In determining the reasonableness of the schedules, the board shall consider all relevant circumstances, including, but not limited to, the time required to perform each function that the dealer is obligated to perform and the appropriate labor rate.

(b) Upon delivery of the vehicle, the franchisee shall give a copy of the delivery and preparation obligations to the purchaser and a written certification that he has fulfilled these obligations.

Added Ch. 996, Stats. 1973. Operative July 1, 1974.

### **Warranty Reimbursement**

3065. (a) Every franchisor shall properly fulfill every warranty agreement made by it and adequately and fairly compensate each of its franchisees for labor and parts used to fulfill that warranty when the franchisee has fulfilled warranty obligations of repair and servicing and shall file a copy of its warranty reimbursement schedule or formula with the

board. The warranty reimbursement schedule or formula shall be reasonable with respect to the time and compensation allowed the franchisee for the warranty work and all other conditions of the obligation. The reasonableness of the warranty reimbursement schedule or formula shall be determined by the board if a franchisee files a notice of protest with the board.

(b) In determining the adequacy and fairness of the compensation, the franchisees effective labor rate charged to its various retail customers may be considered together with other relevant criteria.

(c) If any franchisor disallows a franchisees claim for a defective part, alleging that the part, in fact, is not defective, the franchisor shall return the part alleged not to be defective to the franchisee at the expense of the franchisor, or the franchisee shall be reimbursed for the franchisees cost of the part, at the franchisors option.

(d) All claims made by franchisees pursuant to this section shall be either approved or disapproved within 30 days after their receipt by the franchisor. Any claim not specifically disapproved in writing within 30 days from receipt by the franchisor shall be deemed approved on the 30th day. When any claim is disapproved, the franchisee who submits it shall be notified in writing of its disapproval within the required period, and each notice shall state the specific grounds upon which the disapproval is based. All claims made by franchisees under this section and Section 3064 for labor and parts shall be paid within 30 days following approval. Failure to approve or pay within the above specified time limits, in individual instances for reasons beyond the reasonable control of the franchisor, shall not constitute a violation of this article.

(e) Audits of franchisee warranty records may be conducted by the franchisor on a reasonable basis, and for a period of 12 months after a claim is paid or credit issued. Franchisee claims for warranty compensation shall not be disapproved except for good cause, such as performance of nonwarranty repairs, lack of material documentation, or fraud. Any chargeback to a franchisee for warranty parts or service compensation shall be made within 90 days of the completion of the audit. If a false claim was submitted by a franchisee with intent to defraud the franchisor, a longer period for audit and any resulting chargeback may be permitted if the franchisor obtains an order from the board.

Amended Ch. 528, Stats. 1993. Effective January 1, 1994.

### ***Franchisor Incentive Program***

3065.1. (a) All claims made by a franchisee for payment under the terms of a franchisor incentive program shall be either approved or disapproved within 30 days after receipt by the franchisor. When any claim is disapproved, the franchisee who submits it shall be notified in writing of its disapproval within the required period, and each notice shall state the specific grounds upon which the disapproval is based. Any claim not specifically disapproved in writing within 30 days from receipt shall be deemed approved on the 30th day. Following the disapproval of a claim, a franchisee shall have one year from receipt of the notice of disapproval in which to appeal the disapproval to the franchisor and file a protest with the board. All claims made by franchisees under this section shall be paid within 30 days following approval. Failure to approve or pay within the above specified time limits, in individual instances for reasons beyond the reasonable control of the franchisor, do not constitute a violation of this article.

(b) Audits of franchisee incentive records may be conducted by the franchisor on a reasonable basis, and for a period of 18 months after a claim



is paid or credit issued. Franchisee claims for incentive program compensation shall not be disapproved except for good cause, such as ineligibility under the terms of the incentive program, lack of material documentation, or fraud. Any chargeback to a franchisee for incentive program compensation shall be made within 90 days of the completion of the audit. If a false claim was submitted by a franchisee with the intent to defraud the franchisor, a longer period for audit and any resulting chargeback may be permitted if the franchisor obtains an order from the board.

Added Ch. 528, Stats. 1993. Effective January 1, 1994.

### ***Hearings on Protests***

3066. (a) Upon receiving a notice of protest pursuant to Section 3060, 3062, 3064, 3065, or 3065.1, the board shall fix a time, which shall be within 60 days of the order, and place of hearing, and shall send by registered mail a copy of the order to the franchisor, the protesting franchisee, and all individuals and groups which have requested notification by the board of protests and decisions of the board. Except in any case involving a franchisee who deals exclusively in motorcycles, the board or its secretary may, upon a showing of good cause, accelerate or postpone the date initially established for a hearing, but in no event shall the hearing be rescheduled more than 90 days after the board's initial order. For the purpose of accelerating or postponing a hearing date, "good cause" includes, but is not limited to, the effects upon, and any irreparable harm to, the parties or interested persons or groups if the request for a change in hearing date is not granted. The board, or a hearing officer designated by the board, shall hear and consider the oral and documented evidence introduced by the parties and other interested individuals and groups, and the board shall make its decision solely on the record so made. Chapter 4.5 (commencing with Section 11400) of Part 1 of Division 3 of Title 2 of the Government Code and Sections 11507.3, 11507.6, 11507.7, 11511, 11513, 11514, 11515, and 11517 of the Government Code apply to these proceedings.

(b) In any hearing on a protest filed pursuant to Section 3060 or 3062, the franchisor shall have the burden of proof to establish that there is good cause to modify, replace, terminate, or refuse to continue a franchise. The franchisee shall have the burden of proof to establish that there is good cause not to enter into a franchise establishing or relocating an additional motor vehicle dealership.

(c) In any hearing on a protest alleging a violation of, or filed pursuant to, Section 3064, 3065, or 3065.1, the franchisee shall have the burden of proof, but the franchisor has the burden of proof to establish that a franchisee acted with intent to defraud the franchisor where that issue is material to a protest filed pursuant to Section 3065 or 3065.1.

(d) A member of the board who is a new motor vehicle dealer may not participate in, hear, comment, or advise other members upon, or decide, any matter involving a protest filed pursuant to this Article unless all parties to the protest stipulate otherwise.

Amended Sec. 89, Ch. 938, Stats. 1995. Effective January 1, 1996. Operative July 1, 1997.

Amended Sec. 2, Ch. 356, Stats. 1997. Effective January 1, 1998.

Amended Sec. 5, Ch. 662, Stats. 1998. Effective January 1, 1999.

### ***Decision***

3067. (a) The decision of the board shall be in writing and shall contain findings of fact and a determination of the issues presented. The decision shall sustain, conditionally sustain, overrule, or conditionally overrule the protest. Any conditions imposed by the board shall be for the purpose of assuring performance of binding contractual agreements between

franchisees and franchisors or otherwise serving the purposes of this article. If the board fails to act within 30 days after such hearing, within 30 days after the board receives a proposed decision where the case is heard before a hearing officer alone, or within such period as may be necessitated by Section 11517 of the Government Code or as may be mutually agreed upon by the parties, then the proposed action shall be deemed to be approved. Copies of the board's decision shall be delivered to the parties personally or sent to them by registered mail, as well as to all individuals and groups, which have requested notification by the board of protests and decisions by the board. The board's decision shall be final upon its delivery or mailing and no reconsideration or rehearing shall be permitted.

(b) Notwithstanding subdivision (b) of Section 11517 of the Government Code, if a protest is heard by a hearing officer alone, 10 days after receipt by the board of the hearing officer's proposed decision, a copy of the proposed decision shall be filed by the board as a public record and a copy shall be served by the board on each party and his or her attorney.

Amended Sec. 6, Ch. 662, Stats. 1998. Effective January 1, 1999.

### ***Judicial Review***

3068. Either party may seek judicial review of final decisions of the board. Time for filing for such review shall not be more than 45 days from the date on which the final order of the board is made public and is delivered to the parties personally or is sent them by registered mail.

Amended Ch. 384, Stats. 1974. Operative July 5, 1974.

### ***Application of Article***

3069. The provisions of this Article shall be applicable to all franchises existing between dealers and manufacturers, manufacturer branches, distributors and distributor branches at the time of its enactment and to all such future franchises.

Added Ch. 996, Stats. 1973. Operative July 1, 1974.